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CIS

POSTAL FRAUD: THE NEED FOR GREATER LAW ENFORCEMENT POWER

HEARING

BEFORE THE

SUBCOMMITTEE ON CIVIL SERVICE, POST OFFICE, AND GENERAL SERVICES

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 1407

TO AMEND TITLE 39, UNITED STATES CODE, BY STRENGTHENING THE INVESTIGATORY AND ENFORCEMENT POWERS OF THE POSTAL SERVICE BY AUTHORIZING INSPECTION AUTHORITY AND BY PROVIDING FOR CIVIL PENALTIES FOR VIOLATIONS OF ORDERS UNDER SECTION 3005 OF SUCH TITLE (PERTAINING TO SCHEMES FOR OBTAINING MONEY BY FALSE REPRESENTATIONS OR LOTTERIES), AND FOR OTHER PURPOSES

OCTOBER 13, 1981

LITTLE ROCK, ARK.

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POSTAL FRAUD: THE NEED FOR GREATER LAW ENFORCEMENT POWER

TUESDAY, OCTOBER 13, 1981

U.S. SENATE,
SUBCOMMITTEE ON CIVIL SERVICE,
POST OFFICE, AND GENERAL SERVICES,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Little Rock, Ark.

The subcommittee met at 9 a.m., pursuant to notice, in the Federal Post Office and Courthouse, Fourth Floor Courtroom, Little Rock, Ark.

Mr. RUTHERFORD. Welcome this morning to this hearing on postal fraud, ladies and gentlemen. We certainly appreciate your attendance and interest.

My name is Skip Rutherford, administrative aide to Senator Pryor. As many of you know by now, Senator Pryor could not be with us this morning for the hearing. His 15-year-old son, Scott, is in a Washington area hospital suffering from abdominal injuries as the result of a football accident Saturday.

Scott's condition is not known. However, doctors are conducting tests this morning for possible internal injuries.

He is also running a very high fever. Exploratory surgery remains a possibility.

Senator Pryor left Little Rock last night about 8:30 p.m., and arrived in Baltimore about 2:00 this morning. He is now at the hospital with his son and his wife, Barbara.

However, the Senator was insistent that this hearing continue. We have today an outstanding slate of witnesses and professionals to talk about a most important subject.

Before I read Senator Pryor's opening statement for him, I would like to introduce the two people sitting next to me. On my left is Theresa Forster, a legislative assistant to Senator Pryor in Washington. Theresa has been instrumental in the plans for this hearing.

On my right, Mr. Knox Walkup, minority staff director and chief counsel for the Subcommittee on Civil Service, Post Office, and General Services. He has been authorized by the chairman to come to Little Rock for this hearing.

Knox is an attorney. He is a graduate of Harvard Law School, and a member of the professional staff of the subcommittee since 1977. His parents lived in Helena, Ark., for several recent years.

Mr. Walkup will introduce the witnesses and conduct the hearing.

In addition, we have with us Mr. Louis Light, who is a member of the subcommittee staff and is a native of Little Rock. We are pleased to have Louis with us this morning.

Following Senator Pryor's statement will be statements submitted by Senator Roth and Senator Stevens.

Now, here are the opening remarks that Senator Pryor had planned to deliver.

OPENING STATEMENT OF HON. DAVID PRYOR, U.S. SENATOR FROM THE STATE OF ARKANSAS, PRESENTED BY SKIP RUTHERFORD, ADMINISTRATIVE AIDE TO SENATOR PRYOR

Mr. RUTHERFORD. First off, I would like to say that I am proud to bring an official hearing of the Subcommittee on Civil Service, Post Office, and General Services of the U.S. Senate Committee on Governmental Affairs to Little Rock, and I would welcome you all here this morning.

I am deeply indebted to Senator Stevens of Alaska, the chairman of our subcommittee, for authorizing this field hearing. He shares my concern over this most important issue of postal fraud, and I am grateful to him.

We have also been working closely with the House Select Committee on Aging under the able direction of Chairman Claude Pepper. Through our investigations, we have learned of the epidemic proportions to which the incidence of mail fraud has grown. Billions of dollars are lost yearly to this type of fraud.

Cases of mail fraud have been found in schemes involving anything from advertisements for phony gold coins, bogus land deals, worthless work-at-home schemes, pills and products to restore sexual potency, cures for cancer, glaucoma, rheumatism—and practically any other ill you can imagine—to the sale of fraudulent commodity futures.

One of the saddest aspects of this situation is that over 60 percent of the victims of this fraud are senior citizens. In fact, the Arthritis Foundation estimates that over $1 billion per year is lost to phony arthritis cures alone.

Some of the most loathsome of these schemes are those that promise greater financial security, preying on the desire of our elderly to remain active, self-sufficient, and independent members of society, at a time when they greatly fear cutbacks in benefit programs and the declining value of their dollars.

Last month, I had the opportunity of sitting in on a hearing of the House Select Committee on Aging which focused on business and investment frauds against the elderly. Testimony taken at that hearing featured:

A woman from Missouri who lost $21,000 in a phony securities deal.

A man from Maryland who lost $57,000 to a commodities fraud.

A woman who lost $25,000 in a phony fast-food franchise.

A man from Texas who lost $18,000 in a vending machine racket.

A man who lost $30,000 in an earthworm distributorship.

The committee heard heartbreaking stories of financial devastation, included among which was the story of a man who committed suicide as a result of his loss of $50,000 in a phony securities racket.

The fact that these schemes are despicable is undisputed. A deeper analysis, however, reveals that despite the commendable efforts of the U.S. Postal Inspection Service to put an end to the obtaining of money through the mail by means of false representations, the Service is seriously limited in its efforts to investigate and prosecute such cases.

In order to investigate these cases of fraud, the Postal Service must send a postal money order for the suspected item and have the product tested. If false representation is apparent, the Service must solicit the judgment of an administrative law judge as to whether the representations constitute fraud. If considered fraudulent, the Service must conduct further investigation until the case is strong enough to be taken to the U.S. attorney.

By the time the Postal Service recognizes a suspected quack offer, orders the product and submits it for testing, the companies have often closed down their operation or moved it to another State. Even if the company is still in existence, the Postal Service's only recourse under present law is to ask for a hearing and a court order to block incoming mail from being delivered to the address advertised.

Today, through the testimony of Mr. Kenneth Fletcher, the Chief Postal Inspector, I hope that we will learn more about the work of the Postal Inspection Service with regard to mail fraud, the limitations currently placed on the Service, and the effect that Senate bill 1407, a measure which I have recently introduced in the Senate, would have regarding the strengthening of the enforcement powers of the Service.

In addition, we are proud to have with us today Steve Clark, the Attorney General for the State of Arkansas. Mr. Clark's office is active in prosecuting cases of mail fraud and other phony schemes which originate within the State of Arkansas. We are very pleased to have him as a witness today.

We also have representatives of the Arkansas Press Association and the Better Business Bureau. We are anxious to hear how members of these organizations are affected by these schemes.

I am also pleased to welcome some individuals who have themselves been cheated through fraudulent mail schemes. Their testimony will poignantly illustrate the vulnerability of our citizens, and the need for greater efforts to eradicate this epidemic of mail fraud. We will also hear from a witness who himself organized and executed the types of schemes we are talking about.

I want to take this opportunity to thank you all for being here today, and to say that I look forward to your testimony.

[The statements of Senator Roth and Senator Stevens follow:]

STATEMENT OF SENATOR WILLIAM V. ROTH, JR.

Mail fraud schemes swindle the unsuspecting public of an estimated $21 billion a year. Over 60 percent of the bilked, defrauded, duped and cheated victims of these unscrupulous quacks and charlatans are our senior citizens who rely heavily on the mails as a means of obtaining goods and services without leaving their homes.

Although most mail order firms are reputable and legitimate, there are far too many fraudulent scams by con artists selling through the mails phony "medical" remedies, land sales, insurance plans, miracle drugs, make-money-at-home projects and investments that defraud our citizens of their hard earned money and give them nothing in return.

This swindling of the public, especially our senior citizens should not be tolerated. For too long many of these unscrupulous companies would operate under a corporate name selling some sort of bogus "wonder" drug. Once caught by postal authorities and closed down, these companies re-open under a new name selling that same product and again swindling the public.

I have co-sponsored, along with Senator Pryor, S. 1407 to enhance the Postal Service's continuing efforts to protect the integrity of the mails and assure the mails remain a reliable and trustworthy means for the public to conduct its business. The proposed legislation adds no new significant costs to the Treasury, but will strengthen the investigatory and enforcement powers of the Postal Service. The law under which the Postal Service now investigates this type of fraud is over 100 years old. By the time a suspected quack offer is found and tested, the company has closed down or moved to a different state. Even if the company still exists, the Postal Service can only ask for a hearing and a court order to block incoming mail to that company.

It is virtually impossible to build a strong case against fraudulent companies without the proper investigative tools. This bill will provide these tools and help the Chief Postal Inspector and his 2,000 postal inspectors eradicate this type of fraud. I am pleased that the Civil Service, Post Office and General Services Subcommittee has decided to move quickly on this important bill.

Allowing fraudulent mailing schemes to continue is like inviting burglars into the living rooms of our citizens. Those operating such bogus schemes use the mails as their "stick-up" weapon instead of a gun. It is time we took their weapons away.

STATEMENT OF SENATOR TED STEVENS

I commend Senator Pryor for his courtesy in chairing these hearings on S. 1407, which would give the U.S. Postal Service a badly needed boost in the fight against mail fraud. Postal fraud schemes are an especially pernicious form of abuse, since they use a promotional lure which succeeds through playing on human weaknesses.

While the range of con schemes seems to be limitless, the most frequent targets are the elderly. For a senior citizen who has placed a large part of his or her savings in a fake investment or a land fraud, the consequences can be tragic. For an older person suffering from arthritis, or a victim of cancer or glaucoma, the use of the notorious "miracle cure" not only is costly and demoralizing but often worsens their condition.

The only protection against such swindlers is provided by the staff of the Postal Inspection Service under the direction of the Chief Postal Inspector, the Postal Service's equivalent of the Inspector General. The record of this organization is exemplary, and has directly contributed to a sharp decline in the number of bogus work-at-home schemes reported this year by the National Council of Better Business Bureaus. However, the Chief Inspector must stretch his relatively small staff to meet several very different duties, including those normally assigned to Inspectors General. It is no surprise, therefore, that the sheer volume of mail fraud complaints received by the Service suggests the upper hand may be held by the quacks and criminals.

Postal fraud directly not only injures thousands of individual consumers, it also weakens trust in the Postal Service itself and is damaging to the great majority of legitimate direct mail businesses. This legislation, of which I am pleased to be a cosponsor, will, by increasing the investigative power and enforcement authority of the Inspection Service, give the Postal Service the weapons it needs to go on the offensive against mail fraud.

Mr. **RUTHERFORD**. Knox, would you please introduce our first panel?

Mr. **WALKUP**. Our first witness will be Mr. Kenneth Fletcher, Chief Postal Inspector of the U.S. Postal Service, Washington, D.C.

TESTIMONY OF KENNETH H. FLETCHER, CHIEF POSTAL INSPECTOR, U.S. POSTAL SERVICE, WASHINGTON, D.C.

Mr. **FLETCHER**. Good morning. My name is Kenneth Fletcher. I am the Chief Postal Inspector.

I appreciate the opportunity to appear before this subcommittee today to discuss our efforts to prevent and combat fraud through the mails.

The Postal Inspection Service is the investigative arm of the U.S. Postal Service. It has investigative jurisdiction over all violations of

Federal criminal laws relating to the Postal Service. The postal crimes with which the Inspection Service must contend fall into two broad categories: First, those actions which involve a criminal attack upon the Postal Service or its employees, such as armed robberies, burglaries, theft of mail, and assaults on postal employees; and second, those which involve criminal misuse of the postal system itself, such as the mailing of bombs or pornography and, of course, mail fraud.

The magnitude of these responsibilities is in direct proportion to the size of the Postal Service itself, which last year handled just over a hundred billion pieces of mail, and has about 650,000 employees, over 40,000 postal facilities, and cash income of about $18.7 billion.

The Inspection Service also has responsibility for internal audit in the Postal Service and for providing for the security of postal facilities and postal employees. To meet these responsibilities, we have about 2,000 postal inspectors; a uniformed postal security force of approximately 2,500 people; a variety of other support and administrative personnel; and 6 crime laboratories strategically located throughout the United States.

With that brief introduction, let me move to the purpose of my appearance here today, which is to discuss our common interest in protecting the American public against mail fraud.

Shopping through the mail is convenient and easy. It provides an ideal way to obtain services or goods at a minimum of cost and effort. In fact, the Postal Service has been heavily promoting "Shop-by-Mail" since the country first experienced the energy shortage.

In a recent survey, mail order shopping was estimated to be a $25.8 billion a year industry.

Unfortunately, there are some unscrupulous mail order dealers. However, let me insert a cautionary note about what I am saying. The vast majority of mail order firms are legitimate. I am focusing on the relatively few who have distorted and used the system for their own illegal gains.

The Inspection Service currently receives an average of about 200,000 mail fraud complaints each year. From October 1980 through June 30, 1981, we initiated over 2,100 mail fraud investigations. In relation to those varied responsibilities I previously described, the Inspection Service devotes 20 percent of its time to combating mail fraud.

A little later in my testimony, I will be discussing actual case files which are representative of the type of schemes we have investigated. While we feel successful criminal prosecution in these types of cases serves as a deterrent to others, the conviction of the offender is often of little solace to those who lost their money. The ideal solution is, of course, to prevent individuals from being victimized in the first place.

We believe a substantial reduction in crime can be accomplished through a combination of public awareness and a lessening of opportunity for the criminal. We think the efforts of this subcommittee in holding this hearing are very helpful in increasing public awareness.

In an effort to heighten public awareness of mail fraud schemes, we have selected and trained inspectors as consumer protection specialists. They have appeared on hundreds of radio and TV interview programs, have addressed thousands of civic and consumer groups, as well as prepared articles for numerous newspapers and magazines. We have also prepared several brochures which address specific type schemes.

In addition, the Inspection Service contacts newspaper and magazine publishers to advise them of action taken by the Postal Service against fraudulent work-at-home and medical schemes which were promoted through advertisements placed in their respective publications.

Where frauds have been committed, we use a two-pronged attack. Criminal prosecution is considered under title 18, United States Code, section 1341—the mail fraud statute. This is one of the Nation's oldest consumer protection laws. The law is quite simple but very broad. Essentially, whoever uses or causes the mails to be used in a scheme to defraud is in violation of the mail fraud statute.

Additionally, we consider administrative action under title 39, United States Code, section 3005. This section permits the Postal Service, upon proper showing before an administrative law judge, to withhold and return to the sender, mail addressed to anyone who solicits moneys through the mail by false representations.

In addition, the Postal Service may request the U.S. district court in the area where the promoter receives mail to issue a temporary restraining order under title 39, United States Code, section 3007. This restraining order stops the delivery of mail until the administrative law judge renders a decision. In fiscal year 1981, we initiated administrative action against 454 various promotions nationwide.

Knox, it seems appropriate to comment at this point on the anticipated impact the bill, S. 1407, will have on our ability to deal with mail fraud.

As Senator Pryor and a number of his colleagues have pointed out in sponsoring this legislation, this bill would correct a serious oversight in current law by giving to the Inspection Service the same investigative demand authority granted to the Inspectors General. This would not be a regulatory power, but rather the means by which to more efficiently and effectively fulfill existing responsibilities.

The authority, if granted, would greatly assist the Inspection Service in both criminal and administrative investigations by enabling us to gain access in a timely fashion to books, records, and documents relevant to the offense under investigation. Only the appropriate Federal district court would have the authority to compel compliance or impose sanctions upon those who unreasonably fail to comply with an investigative demand issued by the Postal Service.

The legislation would likewise provide for more expeditious enforcement of the administrative statutes by eliminating what we presently perceive as two weaknesses, one of which is our inability to quickly obtain samples of advertised products.

Many deceptive operators are aware of our "test purchase" investigative procedures and delay shipping the products until they believe that they have realized the maximum return on their promotion. Moreover, common mail order marketing procedures frequently involve "one-shot" advertising. For example, the familiar full-page Sunday supplement ads, which will draw responses for only a very short time.

The needed authority which this bill would provide is simply to require the vendor to sell the product to the Postal Service upon demand and the tender of the advertised purchase price.

Another weakness in section 3005 which would be remedied by this proposed legislation is the lack of any sanction to discourage operators from circumventing an outstanding false representation order. Fraud operators often simply modify their business names or change their addresses and continue to sell the same product under the same false representations.

Presently, we must initiate administrative proceedings each time the promoter renews the activity under a different name. And each time, the promoter keeps getting the consumer's money until a new proceeding can be brought and a new order obtained.

The Senator's bill would authorize a civil penalty of up to $10,000 a day for those operators who evade or attempt to evade the effect of an order.

Let me give you a few examples of the kinds of cases where this would help. We had a long series of investigations of an individual who peddled phony aphrodisiacs by mail. In the course of his activities over the years, he used about 55 different names and addresses. At least 25 administrative actions were filed. After each filing, he simply moved on to new addresses, reestablishing the promotion under different names. He was put out of business only after he was finally convicted for mail fraud under the criminal statute. In the meantime, many consumers were defrauded and could not get their money back.

Of special concern to us are schemes which prey on our senior citizens. These include work-at-home schemes, investment and job opportunity ventures, land and merchandise frauds, and spurious medical promotions. Through cleverly conceived advertising, promoters tout all manner of miracle cures. Due to rising costs of medical attention and, perhaps, previous unsuccessful attempts to alleviate their suffering, the elderly are often tempted to try these purported cure-alls for a long list of problems, including arthritis, cancer, obesity, impotency, and baldness.

False claims often deal with the aging process. These promotions prey upon our vanities. Since the days of the mythical "Fountain of Youth," people have been searching for ways to regain the vitality and appearance of youth.

Recently, a company operating in Memphis, Tenn., sent direct mail advertisements to thousands of senior citizens nationwide offering the "Miracle of the 80's." The product called "Potency Plus" would stop the process of aging and increase the life span of the user. It was to be used by those suffering from arthritis, bad eyesight and hearing, gallstones, high blood pressure, gout, ulcers, blood clots, constipation, heart disease, stroke, and all the other ravages of aging.

For $20, respondents received a 60-day supply of pills consisting of vitamin C and E and a so-called miracle ingredient, "Panax." Medical experts refuted these claims. But before the promotion was stopped by a false representation order, about 7,000 persons purchased this cure-all product.

Another promoter advertised in nationally distributed publications that one could "get rid of body pain without medicine." Those interested were to write to Zeldcoe, Santa Ana, Calif., for free details. In return, the promoter sent a letter soliciting $14 plus $1.50 for handing and shipping costs for a product called "The New Health Restorer," a device which the promoter claimed that when used just a few minutes per day, would give lasting relief from body pains and miseries; would restore normal body functions; and enable the users to live longer, more active lives. The device was also guaranteed to be completely safe to use.

Customers received a board approximately 6 by 12 inches in size with three plastic cushions attached to one side. A person is supposed to place this device on the floor, sit on it, rock back and forth, and at the same time move the knees from side to side.

We would like to be able to demonstrate this for you. However, we could find no one who had the dexterity or the coordination to accomplish this feat.

A medical expert stated, "It is beyond my comprehension how this ridiculous device and exercise can possibly result in the claimed benefits." He further stated that the use of this device would actually aggravate the condition of the user and could cause even greater suffering, especially if the user were elderly.

Approximately 2,100 persons purchased this worthless device before we were able to put the firm out of business.

As you can see, the problem goes beyond the mere loss of a few dollars. These devices can do harm. The victim may put off seeking medical attention by relying on the promised miracle cure.

Another prevalent scheme is the so-called work-at-home scheme. Although the most common offering is for envelope stuffing, schemes also include the making of products such as baby booties or aprons.

It is usually alleged there is a market for such products when there is none, or that the promoter will buy the products when, in fact, the promoter will not. I think you are all familiar with the kind of advertisements I am talking about: "Earn $400 or more per month in your own home, no investments necessary, choose your own hours," and that kind of come-on. We know of no such work-at-home scheme that ever produced income as alleged.

More than 9,800 persons invested $12 each in a work-at-home promotion advertised by Habco Sales, Lufkin, Tex. The operators of this fraudulent scheme placed advertisements in nationally distributed publications such as the National Enquirer offering employment mailing circulars. Those who invested were advised that Habco Sales represented 50 companies who paid commissions to have circulars mailed.

However, instead of mailing circulars, respondents were told to place advertisements in newspapers similar to the one which enticed them to invest their $12. The operators of this scheme were convicted of mail fraud and sentenced on January 5, 1981, to 3 months in jail, 5 years' probation, and fined $6,000.

In an effort to expose these operations, we have developed a brochure, which has had far more response than we anticipated. This brochure describes the typical work-at-home schemes with cautions for the consumer. It also asks the consumer to notify us of suspicious advertising and has a tear-off card for this purpose.

Since we issued the brochure in June 1980, we have been receiving over 50 reply cards a week identifying numerous promotions, some of which we were totally unaware. Within the last year, we have put out of business, through false representation orders, consent agreements, or criminal proceedings, about 3,500 of these phony work-at-home promotions.

Recently, we received another indication that we are making an impact in this area. The National Council of Better Business Bureaus has advised us that for the first half of fiscal year 1981, the number of complaints they received concerning work-at-home schemes was down by 56 percent compared to the same period the previous year.

Another growing problem area is in the broad spectrum of investment swindles. This involves a variety of schemes, including franchises and distributorships, investments in coins, gems, stocks, land sales, and a host of other schemes. A typical swindle of this nature was the sale of fashion jewelry distributorships from here in Little Rock.

Guy Thompson, operating as Welco, Inc., induced victims to invest in his distributorships through newspaper advertisements and display booths at business opportunity shows throughout the country. Falsely representing Welco as an agent of an established jewelry firm located in Rhode Island, Thompson promised the delivery of high-quality jewelry showcases which would be placed in high-traffic locations guaranteed to produce sales.

None of these promises ever materialized. Skeptical investors were given the names of references or "singers" who were hired by Thompson to tell how successful they had been in operating a Welco distributorship. As a result, over 500 persons throughout the country made investments ranging from $3,700 to $20,000 in this swindle, causing a total loss of over $3 million. Thompson was subsequently convicted of mail fraud and sentenced to 11 months in prison and 3 years' probation.

A Palo Alto, Calif., promoter, described by a juror as being able to sell freezers to Eskimos, advertised the sale of gum, cigarette, and popcorn vending machine distributorships for approximately $6,000 each. Operating under the name "Sentinel Distributors," Robert Donovan falsely described his business as a multimillion dollar industry associated with manufacturers of nationally advertised products such as Wrigley's chewing gum and several well-known brands of cigarettes.

Although delivery and installation of top quality machines, profitable locations, and maintenance were guaranteed, half of the investors did not receive any machines at all, and those that did, found that the locations provided were worthless and unprofitable. A total of 12 victims lost a half a million dollars to this fraud.

Donovan was later sentenced to 3 years in prison, fined $1,000, and 5 years' probation, with the stipulation that he make restitution. If restitution is not made, Donovan's prison sentence will be increased to 8 years.

Before I conclude, I would like to mention two other types of schemes. As you know, the high cost of housing and the high interest rates are causing many homeowners to remodel their present homes rather than purchase new ones. Unfortunately, swindlers in the home improvement industry are causing monetary losses and frustration and despair to many individuals who relied on their services.

One such unscrupulous contractor operating out of Little Rock placed ads in numerous local newspapers offering remodeling work at modest rates and early completion dates. Twenty-one Little Rock residents invested the required 40 percent down payment to have work done on their homes, payments which usually ranged between $5,000 to $8,000.

The contractor would begin some work on the victims' homes as a lulling tactic. However, he never completed anything he started. The work that he did do was so shabby that the victims had to pay other contractors enormous fees just to repair the damage he had done.

One couple was left with a gaping hole in their roof in the middle of winter. An elderly couple had to seek rental housing after the contractor abandoned the major renovation work being done on their home, leaving it in a state of total disarray. Since this couple did not have the necessary cash required to make their home liveable again, they put up their home for sale at a ridiculously low price. Fortunately, friends intervened and provided this couple with needed financial assistance. The contractor was subsequently convicted of mail fraud and sentenced to 1 year in prison with a year's probation.

In a particularly distasteful scheme, Howard M. Gering, pastor of a church in Washington State, placed advertisements in nationally circulated religious magazines soliciting sponsors who were willing to donate from $12 to $30 each month for orphans in foreign countries. Upon sending a coupon from the magazine to Gering with an initial donation, the sponsor would receive a translated letter of thanks from the child as well as a photograph and personal background information.

Over 200 persons throughout the United States and Canada became sponsors and made donations exceeding $600,000. However, most of the donated money was used by Gering to purchase real estate, stocks, and to pay off debts owed by his family. Gering, not the children, wrote most of the letters to the donators to keep the contributions flowing. Many of the persons who made monthly contributions to this swindle were elderly or disadvantaged individuals, living on fixed incomes. Although 200 donors were taken in by this scheme, among the victims were the native children Gering used as pawns for his own gains.

Gering was found guilty of mail fraud and is scheduled to be sentenced on October 23.

As you can see, the variety of fraudulent schemes is seemimgly endless. I pointed out earlier in my testimony that the Postal Service is encouraging the use of the mails to shop, and we therefore feel very strongly about our obligation to keep the mails as free from abuse as possible.

The percentage of phony mail order promotions is small when compared to the vastness of the total mail order industry, but the substantial dollar losses and the cost in terms of human suffering deserve our attention. Although I am proud of what we have accomplished in terms of protecting the American public, and especially our senior citizens, there is still much work to be done.

I feel that the legislation the Senator introduced in the Senate to amend title 39 of the United States Code, S. 1407, will provide us needed tools to better serve and protect postal customers.

It has been my pleasure to report to you the efforts of the Postal Service to combat mail fraud. I will be happy now to respond to any questions you may have.

Mr. Walkup. Before we go to any questions, let me ask that our next witness join you at the witness table.

Our next witness is the Honorable Steve Clark, Attorney General of the State of Arkansas.

TESTIMONY OF STEVE CLARK, ATTORNEY GENERAL OF THE STATE OF ARKANSAS

Mr. CLARK. Thank you very much. I am pleased to be here and echo some of the sentiments expressed by the Postal Inspector, and to at least give to you some overview of what we see the Arkansas situation to be with mail order fraud and mail order solicitation.

Mail order fraud and mail order solicitation and related complaints consistently rank as our No. 1 complaint category in our consumer protection division, with 2,150 complaints in 1980, and with 1,451 complaints thus far in the first 8 months of 1981.

If direct contact with a company fails to resolve a complaint, our only recourse is to enlist the aid of the attorney general's office in that particular State; or if it appears to be a fraudulent operation, then we notify the postal inspector's office.

In many instances this office is not effective in dealing with these schemes simply because the individuals operating the schemes are aware of the legal limitations of my office.

Recently, the consumer protection division of my office issued a civil investigative demand for information from a Texas-based operation that was advertising in smalltown Arkansas newpapers that a person could make $411 a week by just working in their program 3½ hours a day. The investigative demand requested the packet of information that Arkansas consumers were being asked to pay a $15 application fee for—the company's response was a flat refusal. It is in situations like this that we must rely totally upon the Postal Service.

To give you some other idea of the kinds of schemes we face daily here in Arkansas, the Postal Inspector indicated some work-at-homes schemes. In July of this past year, my office entered into a consent decree with O & N Enterprises. This was basically a work-at-home scheme operated by a Nigerian national that advertised in several national publications using a Pine Bluff post office box.

The ads offered a work-at-home, envelope-stuffing operation where a person could earn 65 cents per stuffed envelope. A $25 fee was required to receive instructions. However, after an individual would send his $25 fee, he would only be sent a mimeographed instruction kit that would show him how to advertise for others to stuff envelopes.

We issued a subpena for the O & N Enterprises records from three different banks. The results were that in a very short period of time of 3, 4 months, O & N had received approximately $20,000, primarily from out-of-State residents. The consent decree ordered complete restitution and prohibited all advertising in connection with envelope-stuffing schemes.

This O & N Enterprises is a little unusual in the fact that the consumer protection division investigated and successfully resolved the situation, because the vast majority of the time "tables are turned" and the perpetrators of such schemes are located in other States and

Arkansas residents are the victims. It is in these situations that this office must depend heavily on the U.S. Postal Inspectors for assistance.

In the late spring of 1980, a California-based mail scheme to bill Arkansas businesses for advertising in nonexistent magazines. The consumer division began to get a heavy influx of calls and complaints of collection efforts from nonexistent "Jack Strong" demanding a $48 payment for advertising supposedly run in one of the six nonexistent magazines outside of Arkansas, and therefore beyond the long reach of our arm of the State, and we have to depend heavily on the U.S. Postal Inspectors for assistance.

All our office could do was publicize the scheme. It was later determined that the address of the phony magazines were merely mail pickup points. This office warned Arkansas business people about the operation and referred all complaints to the U.S. attorney's office in Los Angeles.

In July of 1980, a Mr. Andrew Wolstein was convicted of five counts of mail fraud, sentenced to 7 years in prison and fined $10,000. But once again, before our office could publicize the scheme, dozens of people paid for ads in nonexistent magazines and in a relatively short period of time, Wolstein collected a large sum of money.

Another kind of problem we see used, in terms of fraudulent schemes through the mail, deals with, for example, a retail oil association rebate. Ads were placed exclusively in smalltown newspapers throughout Arkansas advertising a rebate of 50 cents per gallon of gas purchased in the past year.

The ad represented that the rebate was being imposed under official government regulations and requested that consumers fill out applications and send a $5 processing fee. We were advised by the Alabama Attorney General's office that a check with the Department of Energy and several major oil corporations resulted in finding that no rebate was "officially" being offered.

It turns out that the address in Heflin, Ala., was only a post office box and the individual picking up the mail was being paid by two men from Houston, Tex., to pick up the mail and send it to them. It was estimated that over 200 pieces of mail per day, or $1,000 a day for over a month, arrived at the box before it could be publicized.

One other thing that I should mention is that almost all, or the vast majority, of mail fraud schemes that are perpetrated on Arkansas citizens are done so by individuals outside the boundaries of Arkansas. Thus our enforcement posture against these long-distance ripoffs is very weak.

The most effective thing this office can do is to publicize the schemes and, through consumer education, try to make Arkansas aware. These examples given demonstrate how large sums of money can be accrued in a relatively short period of time before effective warnings can be issued. The ability of the postal authorities to swiftly and efficiently investigate these schemes is of primary importance.

Time is of the essence in dealing with mail fraud operations, and this legislation the Senator has proposed would vastly improve the time element involved in the enforcement of such operations. Detection by issuing a money order to purchase the product to initiate the investigation, investigation aided by subpena authority, and termination of the operation allowed by a court order prohibiting such activities can only result in a more complete job of protecting Arkansas consumers in their dealings with mail fraud and mail abuse.

One other theme that is almost synonymous with mail fraud is the fact that the elderly are primary targets. In Arkansas, a recent survey shows 18.5 percent of our population are 60 years of age, plus. Of these, 43 percent are unable to drive a car and 70 percent are on social security or other forms of fixed incomes.

This means that the elderly persons' primary mode to transact business in the marketplace is by the mail. Also, the lure of well-paying "work-at-home" schemes is of particular temptation because many of the elderly have limited incomes. Tightened enforcement capabilities would particularly benefit in the protection of the elderly from mail fraud. And I certainly support the legislation being offered by the Senator as something that will heighten enforcement and will aid in protecting Arkansans in their particular problems with mail fraud and mail abuse.

Mr. WALKUP. Thank you very much for your statement.

The first question, Mr. Fletcher, is whether you could estimate the amount lost yearly from the fraudulent mail schemes.

Mr. FLETCHER. Well, it's very difficult to come up with a figure that has much of a sound foundation. You hear all kinds of large numbers, and we ourselves have estimated at times that it's very large.

Every time we have one of these schemes investigated, the amount of money that the fraud promoters are able to make is astonishing. Phony diet pills, for example. I have often said if somebody had a desire to pursue a life of crime, I would recommend phony diet pills. It seems there is almost an endless market for phony diet pills.

We have had investigations where $20,000 a day wouldn't be unusual in terms of the sort of money that would come rolling in.

I can't give you a firm figure, Knox, but it's hundreds of millions of dollars.

Mr. WALKUP. Mr. Clark, what action has your office taken to educate consumers regarding thls type of fraud?

Mr. CLARK. Well, it is my belief that the very best consumer protection is good consumer education. Now, if we can keep people from being ripped off, we are providing a greater service than if, after the fact, we are trying to help them recover their money, because in many instances we are hampered in that ability of enforcement.

We have a high visibility consumer education program through contact with approximately 144 radio and television stations; all the newspapers through a weekly consumer alert program; public service announcements; and a program on educational television here that's a monthly 30-minute program.

We do put a great deal of emphasis in that regard.

We also publish a "buyers beware" list, and we list on that companies that meet the criteria to be included, and that is that they are being sued or there is litigation over a fraudulent allegation either in this State or in other States, or that they have failed to respond to our inquiries about complaints, actually six inquiries about complaints, and the other standards that we set up.

So we are trying to distribute a great deal of literature and a great deal of information, and then we do some public speaking, too.

Mr. **Fletcher**. I would certainly like to echo that. The best job that we can do is to prevent the fraud in the first place, and it is a job that no one agency or no one level of government can do by themselves. It needs a cooperative effort here, and we work closely with the attorney general in this State and other States.

We participated in a meeting that was held back in Washington recently of the various States attorneys general offices that was sponsored by Virginia Knauer, and I think it's going to take this kind of coordinated approach to make a real impact on this problem.

Mr. **Clark**. I certainly would agree with that and would compliment the postal authorities on their cooperation with us. I have a tendency to brag in terms of mail order fraud and mail abuse that that's one area where we can resolve complaints when I talk to Arkansas, that if you have that problem, if you will contact us, between our joint efforts we can resolve that.

We had a success rate last year, for instance, of about 86 percent in resolution of these kinds of problems. That sounds very good until you take into account those 14 percent who got no help at all, and many of those people were bilked out of thousands of dollars, or hundreds of thousands of dollars, and they were the folks who could least afford to lose that kind of money.

Mr. **Walkup**. Gentlemen, when people receive an offer or read an advertisement, how should they get information to find out if the proposal is legitimate?

Mr. **Fletcher**. Well, the Better Business Bureau is a good starting point, and we do work very closely with them, both nationally and locally.

We had a slogan in one of our national consumer protection campaigns a few years ago, that, "If something sounds too good to be true, it probably is." And I have been amazed at how often I've heard that repeated, which makes us feel very good.

Get the advice of somebody you trust, your lawyer, your accountant, your banker, a friend. Investigate before you invest is, I think, pretty good advice.

Mr. **Clark**. I think that's excellent advice. We use the Better Business Bureau. There are people who contact our office from time to time. We are not in the business of giving endoresment to an operation or to a company.

We do try to give advice as to how to be a wise and careful buyer. Many times, we suggest, in terms of "investigate before you invest," that you be cautious of dealing with something in terms of an advertisement that comes in the mail that lists only a post office box as a response.

If there is no permanent address or if it does look too good to be true, we advise people to come to us or just to think again, or to write for more information, and we generally tell folks that if you write for information and you don't get a response, you don't want to do business with those folks. A legitimate company will always respond in writing to your questions as to details.

Mr. **Walkup**. Assume a person buys a worthless product or invests in a fraudulent scheme. What should that person then do?

Mr. **Fletcher**. Well, if the purchase was the result of an advertisement that was received through the mails, went through the mails, or if someone responded by mail to an advertisement in the newspaper, we would like to know about it.

Your local postmaster will accept your complaint and get it to us, if you're in a location where you don't have a postal inspector stationed.

If you are at a city where you do have a postal inspector stationed, we would like you to bring it directly to his attention.

We would also emphasize that we would like you to save the evidence of mailings. The letters that you receive from the firm and where you first saw the advertisement will help us in terms of establishing the use of the mails.

Mr. CLARK. I think the big problem here is to again reinforce that it is important to complain. What we have found with mail order fraud, oftentimes, is that the amount is under $30. It's $4.95 or $9.95, or $19.95 or $29.99, and that many of the persons who wind up being the victim of that fraud are afraid to complain for fear of, one, they are perceived as being dumb, you know, or, two, they are perceived as being guilty of making very poor judgment, and it reflects on their own intellectual capabilities or on their business sense and judgment.

We make no judgment on those people that complain and neither do the postal authorities. We try to assist, but we have found often that, particularly with the elderly, if the elderly invests $19.95 to get rich quick or to cure arthritis, or to make $1,000 a month in a work-at-home scheme, many are a little bit timid and shy about coming forward and saying, "Look, I was ripped off," for fear that one would be led to think they are becoming senile in their old age and that they need help and care, or two, that they have a certain element of pride and it won't allow them to come forward and say, "Gosh, I was a victim."

So we encourage people to complain and give us as much detail as they can.

Mr. WALKUP. Do either of you have suggestions as to how local community groups can get involved in consumer education activities?

Mr. FLETCHER. Well, the Attorney General mentioned some things that they are doing here.

As far as the Inspection Service is concerned, we will be very happy to address any local group, senior citizens group or other community group, provide a postal inspector who will talk about the sorts of things that they can do to protect themselves, bring them up to date on the current fraud schemes that may be prevalent in that area, or nationwide, and help them to protect themselves.

We would be happy to participate in that regard.

Mr. CLARK. We do the same in terms of furnishing speakers. We try to get groups, in particular, to take copies of our consumer alert and our special education sorts of information or bulletins that we put out so they can circulate them among their own groups, because if they can get some discussion started, we find that can be effective.

I would share with you just one story of a lady who invested in a chinchilla operation in which she invested $10,000 and then contacted my office with some concern that perhaps this was not a good investment.

We advised her that it might not be a good investment and that she may have invested poorly but we felt that it was legal in terms of solicitation.

She wrote this company a letter and said:

> I've talked to the Attorney General, and he said this was a poor investment, and I don't really feel like you made a proper disclosure and I'd like to have my money back.

The company wrote back with a very fine letter and indicated that, yes, they understood why the Attorney General had said this, and that he had told her the truth, and that in order to reduce the risk or insuring that she would have a good investment, if she would invest $25,000 rather than $10,000, that her risk would be reduced markedly and that she probably would be guaranteed like a 96-percent rate of success.

She quickly sent an additional check for $15,000 and wound up being out $25,000, and a lot of sick chinchillas.

That sort of conversation becomes very important in sharing, and so my office tries to share with individuals those sorts of examples without identifying or embarrassing someone either through personal participation or through our consumer alert.

Mr. **Walkup**. Mr. Fletcher, in 1979, your office intitiated a test program in which you placed typical work-at-home ads in newspapers in an effort to identify potential victims.

Could you discuss that program and its success?

Mr. **Fletcher**. Yes. Reaching a potential victim is a problem. There are just so many ways you can reach people and warn them about schemes using traditional methods.

So we tried a little different approach out in the California area where we did have some problems, particularly with work-at-home schemes.

We placed advertisements in several newspapers in the Los Angeles area. In fact, we just copied some of the ones we had been investigating, such as, "Would you like to earn $400 a week in your home, no work."

When people responded to the ad—and we received, I think, somewhere around 300 or so—we sent them a letter which said, in a very tactful and nice way, that "You're foolish to respond to these ads because nothing is going to happen except you're going to lose money." We also gave them some information about how the work-at-home schemes function and how they never produce any sort of income.

We have received a pretty good response from this procedure. We followed up with a questionnaire to the people that did respond and, by and large, most were pleased that we brought this to their attention, and we probably saved them some money.

It's been another way to reach the potential victim class.

Mr. **Walkup**. Gentlemen, there may be additional written questions submitted later, but I have one final question, if either of you would care to comment on this matter.

A witness who will testify later this morning, Mr. Dennis Schick of the Arkansas Press Association, in a prepared statement suggests the possibility of a hotline to respond to inquiries.

Could you comment on that proposal?

Mr. **Fletcher**. Well, we have considered an 800 number, which I presume is what they're talking about, and the 800 number has been used successfully by the Government Accounting Office and others. We have considered that.

However, we have 40,000 postal facilities throughout the country and complaints can be registered at any of our post offices.

I think that sort of hotline is more effective where you don't have this ready access to receive complaints.

Having said that, nonetheless, we are considering it because there may be still some advantage to a hotline. I think it has been effective in other areas and is something to be considered.

Mr. **Clark**. It is a means to an end, not the end itself. I think in terms of public education and awareness and the enforcement that this bill that the Senator has introduced envisions are additional means to the end that we are seeking to obtain.

The hotline concept is used in our office, for instance, in the consumer protection division. We have an 800 number. We find, for instance, that about a third of the time the number is busy, and you're sitting out there and you're trying to make a call and you get two or three busy signals and you get frustrated and don't call back.

So it can be of assistance and certainly can be of value, but it is not the end itself; it is just one means to the end.

Mr. **Walkup**. We thank you very much.

[Responses to written questions from Senator Pryor follow:]

U.S. Postal Service,
The Postmaster General,
Washington, D.C. March 11, 1982.

Hon. David Pryor,
U.S. Senate, Washington, D.C.

Dear Senator Pryor: Enclosed are responses to the sixteen questions transmitted by your letter of February 17. I understand that these questions will be made part of the record of your Subcommittee's October 13 hearing on S. 1407, legislation to strengthen the investigatory and enforcement powers of the Postal Service.

If you have any questions on the enclosed, please call my office or Edward Horgan, Assistant Postmaster General, Government Relations, on 245-4181.

Sincerely,

William F. Bolger.

Enclosures.

Question 1. Does authority exist in other agencies like the written demand authority provided in Section 2?

Answer. Yes. Section 2 is comparable to Section 20 of the Federal Trade Commission Act (15 U.S.C. 57b); Section 3 of the Antitrust Civil Process Act (15 U.S.C. 1312); and the Inspector General Act of 1978 (5 U.S.C. App. 6(4)) which applies to more than a dozen agencies.

Question 2. Through the use of an example, please outline the procedure established by Sections 2, 3 and 4.

Answer. The following facts are based upon a current § 3005 case. An advertisement offering electronic computer games for sale through the mails, at retail prices substantially below usual discount retail prices, is brought to the attention of the Postal Inspection Service. Informal inquiries to wholesalers establish that the advertised price is below wholesale cost and establish a basis for suspecting that the seller has no inventory or capacity to furnish the product at the advertised price. Under present law, the Inspection Service would have to make a mail order "test purchase" to verify the advertising claims—a process which could take a month or more depending upon the seller's willingness to promptly fill the order. Under Sections 2(a) and 3(d)(1), the Inspection Service could present the seller with a written demand to examine his inventory records and attempt to make an immediate, in person, test purchase.

If these efforts are refused by the seller, Sections (d) (1) and (2) would allow the Postal Service, through the Justice Department, to seek an order from a district court allowing the Postal Service to detain mail in response to the advertisement pending completion of the 39 U.S.C. § 3005 administrative hearing on the merits. Proceedings pursuant to Section 3005 would be initiated by the filing of a formal complaint with the Judicial Officer of the Postal Service. The complaint would be served upon the seller and assigned to an Administrative Law Judge for formal adversary hearings pursuant to the Administrative Procedure Act (See 39 C.F.R. Part 952). Following the administrative hearing, the the Administrative Law Judge would issue a written Intial Decision recommending (or not) the issuance of a "mail stop order" pursuant to 39 U.S.C. § 3005 (a). The Judicial Officer would review the entire record and issue (or not) the recommended order. Under Section 3(b)(2) the Judicial Officer would also be authorized to order the seller to cease and desist from continuing the misrepresentation scheme. If the seller had previously been ordered to cease and desist, Section 4 of the bill would allow the Postal Service to assess a civil penalty for violation of the cease and desist order. Both the mail stop order and any assessed penalty would be subject to judicial review.

Question 3. Section 2 would authorize inspection authority for any matter under investigation pursuant to authority under 39 U.S.C. 404(a)(7). What matter other than false representation matters under 39 U.S.C. 3005 would be covered by Section 413 as proposed?

Answer. The primary use of Section 2 would be in cases arising under 39 U.S.C. § 3005. This authority would also be helpful in the investigation of "mailability" cases arising under 39 U.S.C. § 3001. Moreover, this authority would provide the Postal Service with authority equivalent to the Inspectors General of other agencies to investigate false claims, fraudulent practices, embezzlement and similar activities against the Postal Service by its employees or contractors, or any other postal offense such as mail fraud (18 U.S.C. § 1341).

Question 4. What safeguards would exist to protect against unreasonable inspection demands? How would an individual formally oppose such a demand? Could a party request that documents be kept confidential?

Answer. The Postal Service would propose for public comment rules to govern the issuance and reasonable use of Section 2. For example we plan to restrict authority to issue demands to supervisory inspectors and to explain on the face of the demand the rights and obligations of the party being served with the demand. The final rule adopted in this process would take into account the public's views as to the reasonable use of the authority. Because the authority has no self-operating sanction, the Postal Service would have to obtain a district court order to require compliance. In the district court proceedings the reasonableness of the demand could be challenged. The person or corporation against whom the demand was issued could request the district court to require that the documents be sealed or otherwise kept confidential. A similar request could be made of the Administrative Law Judge in the subsequent administrative proceedings pursuant to 39 U.S.C. § 3005.

Question 5. Would the U.S. District Court decide whether a demand under Section 413 is an unreasonable burden on a party, is sufficiently specific as to the items involved, time and place, concerns an object that relates to a matter under investigation under statutory authority given to the Postal Service and is otherwise appropriate? Would the issues of relevancy, alternative sources of information and probability of accomplishment of investigative purposes be considered by the Court?

Answer. Each of the matters would appear relevant to the court's determination of whether the demand of the Postal Service was "reasonable." In addition, the court would be responsible for determining whether the rules to be adopted by the Postal Service regarding the use of this authority were complied with.

Question 6. Would the procedure under Section 413 be the same for targets of investigation and for third parties who are not potential targets of investigations?

Answer. The Postal Service contemplates proposing rules to govern the issuance of demands under Section 2 which would differentiate between persons who are targets of investigations and third parties. Third parties, for example, would not be subject to a mail detention order pursuant to 39 U.S.C. § 3007.

Question 7. Will the Postal Service's application for enforcement of written demands be governed by existing statutory relations between the Postal Service and the Justice Department?

Answer. Yes. See 39 U.S.C. § 409(d).

Question 8. Under Section 3, 39 U.S.C. 3005(a)(1)(A) is revised to include mailing of nonmailable matter. What would be the effect of that revision?

Answer. Section 3 would *not* revise the current statute with respect to nonmailable matter. The *current* statute provides that the mailing of simulated bills and invoices which fail to bear the prescribed warning (39 U.S.C. § 3001(d)) constitutes a false representation scheme within the meaning of 39 U.S.C. § 3005.

Question 9. Subsection 3(b)(2) provides for cease and desist orders. What formal procedure would be necessary to obtain such an order?

Answer. The cease and desist order would be requested in the administrative complaint and could be issued by the Judicial Officer only upon compliance with the formal hearing procedures required by 39 C.F.R. Part 952.

Question 10. For purposes of Section 3(b)(2), what would be necessary to prove that a firm or individual is another's "representative?"

Answer. It would be necessary, as under the current statute, to prove that the "representative" is the agent for the purpose of receiving mail of the person actually responsible for the scheme.

Question 11. Does the last sentence of Section 3(b) regarding "resumption through use of any instrumentality of interstate commerce" really relate to noncompliance proceedings under proposed Section 3012(a) rather than proceedings under Section 3005?

Answer. Yes. This sentence would be operable only where a person or corporation who received money or property by mail through a scheme which previously was held to violate 39 U.S.C. § 3005, resumes the same scheme using, *e.g.*, credit card charges placed by telephone in lieu of receiving payments by mail.

Question 12. Do Subsections 3(d)(1) and 3(d)(2) regarding an unreasonable failure to provide an article or an unreasonable refusal to comply with a demand for documents relate solely to proceedings before U.S. District Court under 39 U.S.C. 3007?

Does the Court determine whether the failure to provide the article was reasonable and whether the refusal to comply with a written demand for documents was unreasonable?

Answer. With respect to the first paragraph, the only sanctions provided would be an order, issued by the district court, to allow the Postal Service to detain mail pursuant to 39 U.S.C. § 3007. No administrative sanction is provided for unreasonable failure to comply with these demands. With regard to the second paragraph, the answer is Yes. See also question 5 and answer.

Question 13. Who would issue a postal stop order or a cease and desist order? Why would such order be directed at individuals or firms as well as postmasters.

Answer. Mail stop orders and the proposed cease and desist orders could only be issued by the Judicial Officer of the Postal Service following the procedures required by 39 C.F.R. Part 952. The mail stop orders would continue, as at present, to be directed to postmasters as only they could "stop" mail. The cease and desist order would be directed only against the promoter of the scheme or his agent in order that, upon resumption of the scheme, he would have been under prior notice and obligation to refrain from conduct which would give rise to the civil penalties proposed by Section 4.

Question 14. Does Section 4 provide for a formal trial-type procedure on the issue of whether acts described in Subsection (a)(1), (a)(2), or (a)(3) have taken place?

Answer. Yes. The penalty proceedings would be governed by the Administrative Procedure Act (see proposed Section 3012(b)(1)) and would have to take into account the circumstances described in proposed Section 3012 (b)(2). Moreover, authority to enforce payment of the penalty would be vested exclusively in the district courts, and the necessary proceedings would have to be initiated by the Postal Service (see proposed Section 3012(d)).

Question 15. What is the relationship between the provisions of S. 1407 and criminal proceedings for mail fraud under Title 18?

Answer. The provisions of S. 1407 would greatly strengthen our ability to investigate violations of the mail fraud statute. At the outset of an investigation of false advertising by mail, it often is not possible to determine whether either or both statutes may apply. The focus of Sections 3005 and 3007 is promptly to terminate any scheme involving public losses through false representations. The focal concern of 18 U.S.C. § 1341 is intentional attempts to defraud by use of the mails. Information obtained through investigation of a Section 3005 case could be used in a subsequent criminal proceeding, subject to the court's protection of the defendant's rights. Once a criminal case has been presented to a grand jury, investigation would be conducted through the grand jury and not through use of the investigative authority sought in S. 1407.

Question 16. How can a party test the sufficiency or appropriateness of a written investigative demand without risking the sanctions provided for refusal to comply under Subsection 3(d)(2)?

Answer. The party can simply refuse to comply with the demand in whole or in part. The Postal Service would then have the option of initiating district court proceedings where the party could challenge the reasonableness of the demand.

Mr. WALKUP. Our second panel this morning will be Mr. John R. Baker and Mrs. Hazel Karraker, both of Little Rock.

Mr. Baker invested in a jewelry distributorship which operated out of Little Rock, and Mrs. Karraker will testify regarding her husband's expenditures for home remodeling.

Mrs. Karraker, would you like to present your testimony?

TESTIMONY OF HAZEL KARRAKER, LITTLE ROCK, ARK.

Mrs. KARRAKER. My name is Hazel Karraker, and I am 69 years of age. I am a retired switchboard operator and lived with my husband John until his death earlier this year at the age of 78. I am happy to be here to have the opportunity to discuss how my husband was cheated out of his money on a fraudulent home remodeling offer.

Back in 1977, Mr. Karraker and I decided to get married. We agreed that we would live together in his home on Englewood Road here in Little Rock. However, it is an older home, and Mr. Karraker wanted to do some much-needed remodeling in the home before I moved in. He did not have the money to remodel the home, so he took out a loan from First National Bank here in Little Rock.

Mr. Karraker then read a classified ad in the Democrat which offered light home remodeling at a good price. He called a Mr. Doyle Shepherd at the number listed, and Mr. Shepherd responded by coming out to the house to give an estimate.

Mr. Karraker and Mr. Shepherd entered into an agreement that Mr. Shepherd would do the following work: He was to put up paneling throughout the house, do some painting, and remodel the kitchen. Mr. Shepherd requested that my husband give him some money as a downpayment and to pay for the materials, so my husband gave him $3,777.40.

Mr. Shepherd sent some men out to begin the work, and then they stopped coming. They had torn up the house and just left it that way. He called and called to get them to come back to finish the work, but he couldn't find them.

In addition, although it was my husband's understanding that he had already paid, one workman came to the house and built new cabinets in the kitchen, and we found out later that he had not been paid by Doyle Shepherd, so my husband was liable to the cabinetmaker for that work. Finally, anxious to get the house back in living condition my husband was forced to contract with someone else to do the work.

When Doyle Shepherd was finally brought to trial, it was found that he had "taken" many trusting citizens like Mr. Karraker in the Little Rock area. We were fortunate in that we recovered all but $900 of our investment. He had swindled $29,443 combined from just the witnesses who testified at his hearing. I am certain that this was just the tip of the iceberg.

The U.S. attorney's office revealed that Doyle Shepherd frequently concealed his true identity and claimed to be bonded. Many victims were left, not only having had money swindled from them, but were also stuck with liens for materials that they had already supposedly been paid for. Doyle Shepherd was found guilty of eight counts of mail fraud.

I want to commend you, Senator Pryor, for your efforts to stop this kind of fraudulent practice. My husband was just one of countless trusting citizens who are swindled yearly.

Mr. **Walkup.** Mrs. Karraker, thank you very much for your statement.

Mr. Baker.

TESTIMONY OF JOHN R. BAKER, LITTLE ROCK, ARK.

Mr. **Baker.** In 1976, I answered a newspaper ad, "Business Opportunity Show" at one of the local motels. I met a gentleman named—I'll rephase that—I met a man named Guy Thompson. He was selling a jewelry distributorship which I eventually bought and influenced other people to do the same.

They represented themselves as connected with a firm in Rhode Island which has been stated previously.

I even went so far as to have one of the local banks check this firm in Rhode Island, and their credentials were firstrate.

I made an investment. Fortunately, it wasn't "make or break." The investment was no good. The company that I purchased the jewelry from in no way fulfilled their written obligation. They gave me a signed repurchase agreement. At the end of the time which I was allotted to exercise this repurchase agreement, I did so.

They had a local law firm tell me that I was in error. I sued for damages. They didn't show in court. I was awarded damages, but you can't eat those things.

The man was later tried in U.S. district court and found guilty, and I don't know what has happened to him since. I understand that he has tried another fraudulent scheme since that time. I hope it wasn't as successful as the first one.

The only thing I have to offer is be very careful. If you can, have the company show some performance before you are out of any money at all. Most reliable companies will do that.

That's about all that I have to offer, Knox.

Mr. **Walkup.** Thank you very much, Mr. Baker.

Let me ask each of you if you were able to receive any of the money back?

Mrs. **Karraker.** I don't remember the exact amount but we testified in U.S. court, Mr. Karraker did, and we got some back. The prosecuting attorney's office knows how much more he owes us. I think it's about $4,000, maybe more.

Mr. **Walkup.** Mr. Baker?

Mr. **Baker.** None whatsoever. The original investment—my original investment, I think, was $10,000, and as I say, during the court proceedings, I was awarded judgment but there wasn't anything there.

Mr. **Walkup.** Let me ask what suggestions either of you might have for other consumers like yourselves.

Mrs. **Karraker.** I'd say investigate somebody before you went into anything like that. Mr. Karraker liked Mr. Shepherd, thought he was a very nice guy, and he wanted to get the house fixed so badly.

Mr. **Baker**. Well, I've already given you my suggestion. Be sure and have some performance before you make any cash outlay.

Mr. **Walkup**. Thank you.

Mr. **Baker**. You can have these people investigated by the Better Business Bureau, banks, numerous other things, and really the true light does not come out because the stationery that they were using was a Rhode Island firm that was in good shape, but it was a fraud also. They were using stationery that they weren't authorized to use, I found out later.

Mr. **Walkup**. Thank you both very much. Your willingness to appear today is very much appreciated.

Mr. **Baker**. I thank you for the opportunity, and I hope this will help in some way.

Mrs. **Karraker**. I hope it will, too.

Mr. **Walkup**. Thank you very much.

Our next witness is Mr. Hap Seiders, an inmate at the Federal Correctional Institution in Morgantown, W. Va.

Mr. Seiders, I believe you have a prepared statement.

TESTIMONY OF HAP SEIDERS, FEDERAL CORRECTIONAL INSTITUTION, MORGANTOWN, W. VA.

Mr. **Seiders**. Yes, but the other statement I'm going to give is slightly different from the prepared statement.

Mr. Chairman, members of the committee, my name is Hap Seiders. I am 28 years of age. I am a convicted felon currently serving a 10-year sentence at the Morgantown, W. Va. Federal Correctional Institution for operating a fraudulent investment scheme involving rare coins.

I am pleased to appear before the subcommittee as you look into the subject of frauds perpetrated against the elderly. I am here voluntarily to tell you about how such schemes are conducted, and to provide you with first-hand information that you could not otherwise obtain. I am here voluntarily and my hope is that you will close some of the loopholes in the law which make it easy to defraud consumers, increasing the consumers' knowledge of swindles.

I was promised nothing in return for my testimony here this morning.

To begin with a little about myself. I was born in Harrisburg, Pa. I was raised in rural Perry County. After the sixth grade, I had lost most of my interest in school. I got into trouble. I was convicted of committing a burglary and incarcerated in a facility for juveniles for about 10 months at age 16. At the detention center, I came in contact with boys from the city who, at this young age, were already hardened criminals.

The experience at the detention center gave me an appreciation for school. I went back, completed my high school diploma, and was trained as a computer specialist. Upon graduating the computer course, I got a job as computer trainee, which paid $77 a week in 1972. I had married and had a family at the age of 18.

I had always been interested in rare coins. Though I had little money, I had managed to buy a few coins starting when I was about 8 years old. I continued to study coins and became something of an expert.

While working as a computer specialist, I had a small part-time legitimate business in coins on the side. It was not unusual for me to make more per week trading coins than I had made in the computer field.

I was soon promoted to systems analyst and learned a great deal about the world of business. My earnings from coins kept pace or exceeded my salary. I finally got the courage to let go of my job and try the coin business full time.

I did very well right from the beginning. I began to apply the business knowledge I had accumulated, and my operation was legitimate until I learned how many dealers there were who dabble in counterfeit coins. Because the bulk of their business may be legitimate, they seldom, if ever, are caught, so I began to introduce a few counterfeit coins into my operation, out of a desire for even greater profits. I would take out ads in coin magazines and newspapers and sell the items as genuine. When I did not get caught, I introduced more and more counterfeit coins.

In 1975, I ran into trouble with the coin journals. The coin magazines are very strict and they investigate complaints very diligently; and where problems are verified, those accused are refused the privilege to advertise.

This happened to me not so much because of the discovery of some of the counterfeit coins but mostly because I had expanded tremendously and did not have the staff I needed and, consequently, I was late in filling orders.

To get around the problem and my advertising privileges, I hired various people to front for me and used different corporate names and addresses. I paid these people up to $1,000 a week to provide this service for me.

By 1978, I had developed a gross income of about $3 million a year in coins. Ironically, I ended up losing a lot of money in legitimate business, such as investments in the stock market, restaurants, and the like; and legal fees and restitution also ate up a lot of the money.

After going to prison in 1979, my business attorney, who had unethically coached and encouraged me in crime over the years, persuaded me to give him power of attorney to handle my real estate holdings, and he ended up grossly mismanaging my holdings, getting what he could for himself.

By the way, my former business attorney was convicted and sent to prison for 3 months for criminal activity unrelated to my coin business.

I ran a scheme in which I would offer rare coins for auction by mail. For example, there are many different types of counterfeit coins, and one example in particular would be a 1799 silver dollar, which was minted by someone other than the U.S. Mint.

I had access to these coins and could purchase them for about $100. And if the coin were geniune, it would have been worth about $5,000 in 1978. Today, the coin would be worth much more than that. Legitimate rare coins have proven to be one of the best investments over the past few years, thus attracting increasing amounts of investment capital.

What I would do in my ad, I would say that the highest bidder on the coin would receive the coin, and here's the way I played on the people's greed.

There would be any number of people who thought they would send a low bid, just in case, to see if they might get a windfall.

In the case of the 1799 dollar, I would get several offers for, say, $3,500 to $4,100. I would accept all the offers and send invoices out. The people that received my invoices just couldn't send their money fast enough to me. They thought they were the highest bidder, or something, or they thought they were getting a real bargain. They thought maybe I had made a mistake or maybe I was just plain stupid and didn't know what the coin was really worth, and they wanted to push through their end of the deal before I changed my mind or somebody else offered me more for the coin.

So when I received the cashier's check for $4,100, I'd send the coin. And the coin looks authentic to all but the most discerning collectors, and I made a quick $4,000.

Mr. Chairman, I am not proud of what I did. I am very sorry. I felt some guilt at first, but then I began to rationalize that I was not hurting anyone. I just sort of fooled myself into thinking that what I was doing was not a crime. We all get swindled in one way or another.

For example, the minute you drive a new car off the lot, it's worth maybe half of what you paid for it, if you tried to sell it back to the dealer. I justified it further that because some of competitors in the field were doing it, and none of them had ever been caught, and boasted of schemes going back many years.

Also, had I not handled the counterfeit coins, I could never have become an expert at detecting them, thereby making me highly susceptible to purchasing counterfeit coins and unknowingly passing them to my customers as genuine. As a matter of fact, I know of many dealers that happened to.

So I just figured that I was better off buying a coin as a phony in the first place. And, of course, I relied a lot on the assurance of my former business attorney that I would never go to prison.

I particularly regret the times that I and my sales team defrauded the elderly. With the rate of inflation being what it is and human nature being the way it is, many people, particularly the elderly, were lured into making questionable investments. The elderly are vulnerable; they make easy marks for the con man. There are many reasons for this.

For one thing, they grew up in a different, more trusting, less cynical era. For another thing, the elderly usually have some money somewhere. Either they bought a house 30 years ago and it has appreciated tremendously, or a spouse has passed away, leaving the proceeds from a life insurance policy.

The third thing is that they are not accustomed to spending a lot of money or investing throughout their lifetimes and they make easy marks for the fast-talking salesmen because of their extremely limited business experience.

Also, after a person retires in many cases, he or she finds that they have a tremendous amount of extra leisure time on their hands. After working for 30 or 40 years, they are very unaccustomed to this, and may become involved in hobbies or other ventures out of sheer boredom. And, of course, the leisure time gives them a lot more time to look through newspaper articles and magazines and so forth, you know, where they encounter these potential frauds.

The final factor is what I call a desire for immortality. They are often consumed with the desire to do something or leave a little something for the children or grandchildren. All these factors, together with the notion of continuing to provide for themselves in independence throughout their later lives, combine to make them easy targets and deserving of special protection.

The one thing I have learned by being in prison is that there are a million schemes from phony stocks and commodities to land deals which can be targeted against the elderly, and there are thousands of con men in prison right now who are being reeducated and can hardly wait to get out to try some of the new schemes they have learned while in prison.

In many schemes, there is so much money involved, the chances of getting caught, prosecuted and sent to jail are so slim that many of them just consider prison an acceptable professional risk.

I have met many convicts who live their entire lives in a swindle-prison-swindle cycle. They equate their prison time in direct proportion to the money they made. They will operate a scheme and live a life of high finance and total luxury for several years.

Federal investigators, whether it be the law or whatever, they are pretty slow investigating, but they are extremely persistent. It can take several years to first figure out that there is, in fact, a a fraudulent scheme being conducted because all large businesses are bound to receive consumer complaints.

It's very hard to detect a sophisticated swindle until it's too late, because they must rely on consumer complaints.

Second, they have to build a case and finally obtain a conviction and pronounce punishment. I had operated my scheme for almost 7 years, and I can see now that I could have operated indefinitely if, ironically, I did not let that same human trait which made my business work in the first place blind my commonsense, that thing called greed.

So what happens after the conviction? The con artist takes a couple of years of vacation in prison at the taxpayers' expense, ultimately the same people that were swindled. When he is released, he has already started a new scheme, this time a little wiser.

I've met people in their forties and fifties who are doing their fourth or fifth or sixth prison term, and I have also met many small-time convicts who were willing to spend many years in prison for surprisingly small amounts of money. These people are eager to learn from the big swindlers or will be happy to take the fall for the swindler's next conviction.

As for my punishment, it has been very great, not only to me but more so to my beloved family. I couldn't equate money to years of my life in prison. It may be a little different since I once had money.

Most of all, I've learned that, with my business knowledge, I can make as much if not more money legally than illegally, if I should choose to become involved in business again. People who do not equate prison time to money, and thereby are plain scared to commit crime again, after a certain amount of time become alienated to society, or lose their family, making them very bitter and vengeful toward society. They become institutionalized and just no longer care. The prison recidivism rate speaks for itself in that regard.

One thing, prisoners that pose no physical threat to society, there should possibly be some alternatives to prison, such as working for the government or whatever in some way.

Another thing, I think there should be a bigger fine imposed on a lot of crimes.

Me, for instance, my scheme probably took people for more than a million dollars and the only fine I received was a $2,000 fine. You know, I could pay two of them by selling one of those counterfeit coins that we discussed earlier.

With the bigger fines, they could set up possibly some fund for restitution to victims who really need the money, not necessarily the big investor that lost maybe half his money, but for somebody who lost the money that they really needed to live on.

I would urge you to strengthen the hand of the Postal Service whose investigators are effective but are hamstrung by the lack of authority which prevents them from moving until there is evidence that a significant number of people have been injured. By then, it is too late. The money is gone. I think the Internal Revenue Service should play a greater role investigating such frauds because tax fraud goes hand in hand with any other kind of business or investment fraud.

But in doing this, you must be very careful not to create a jungle of restrictions and redtape that would strangle legitimate small businessmen and free enterprise, the very thing that has made our great country what it is today. Necessity is, in fact, the mother of invention, and as new laws and regulations are implemented, the professional, sophisticated con artist will generally stay one step ahead.

Prevention, like the Chief Postal Inspector and the Attorney General pointed out, is the ultimate cure, because once the con man gets the money, it's too late and if he ends up in prison, the consumer may get some satisfaction, but that satisfaction can in no way replenish his bank account.

I greatly appreciate the opportunity to provide you with these views and I will be happy to respond to any of your questions.

Mr. WALKUP. First, let me ask you, how many victims get their money back, and how often?

Mr. SEIDERS. Generally, from what I've seen, I would say very few. One of the remedies they do have is a civil suit. As a matter of fact, many con artists running a scheme have no hard assets to attach, and the cost of legal fees in pursuing it can be very discouraging.

Even though I had substantial assets, such as real estate and so forth, I actually wanted the larger customers who complained to go ahead and sue me; if they were unsatisfied with the coins and demanded refund, I would hold off the refund hoping that they would sue instead of complaining to various consumer protection agencies, and so forth.

Once they hired an attorney and started a cumbersome civil proceedings, I would refer the case to my attorney and the whole transaction would just come to a complete standstill.

Then at that point, if the consumer protection agencies or Federal investigators or the customers bothered me about the transaction, I'd simply say that it was tied up in litigation and that there was nothing I could do without my attorney's OK.

And my attorney would start corresponding with the customer's attorney asking for more details and certain documents, you know, anything to delay it, or he would just say that he was taking a 2-week vacation and he would start looking into the case when he returned.

At the absolute best, it would take the customer 1 year or so to recover his money while I was using it interest-free and making other investments with it. But it would never ever get that far.

After a few months, because of increasing legal fees and wasted time, a lot of times the customer would have a strong desire to settle the transaction and hoping to get anything before maybe I'd skip town, or whatever. At that point, he would be very happy to settle for 50 cents on the dollar and the transaction would be 100-percent legally consummated.

On the other side of the fence, at the same time, I lost money, too, through bad debts and bounced checks. And since the customers who beat me were from all over the country, I never even thought of attempting to waste my time to collect or sue or anything like that.

I just learned a lesson and concentrated on prevention—be a little smarter the next time. I'd see how they did it to me and then I wouldn't let it happen again.

As a matter of fact, there was one particular case which did get to court, about the only case that ever did, a civil action, that I'd like to relate to you.

A customer had ordered $27,000 worth of coins. This was in 1977 when $27,000 was worth something, you know, and the coins I sent him cost me about $4,000. He discovered that he had been swindled too late. It took the better part of a year until the case finally went to trial, which was actually very fast, because there were delay tactics offering settlement and all that, and I never even thought it would ever get to court.

The customer happened to be a doctor from Illinois, and in addition to staggering legal fees, he would have to close down his practice and come to Pennsylvania for a trial which would have been very lengthy.

When it finally did get to court, my attorney and I were so sure that we would lose the case, my former business attorney had drawn up agreements to transfer my tangible assets to my wife as part of a divorce settlement if, and more likely when, I lost the case, backdated, so the doctor would have at most a worthless judgment.

Also, we were so sure that I'd lose the case that on the first day of trial, we upped my settlement offer to about $35,000 for him to just back off, but he wouldn't accept that. But somehow or other, after 5 days of trial, the jury returned a verdict in my favor.

Had they ruled against me at that point, the punitive damages part of the trial would have begun and would have taken at least a month.

That just sort of shows you that about anything can happen with a jury, and they sort of went in favor of the hometown young, innocent businessman as opposed to this wealthy doctor that had foolishly sent $27,000 through the mail to someone that he never knew and now he was trying to make money.

But even if the doctor would have won the case, like he should have legally, the only thing he would have had would have been a judgment which could have taken years to execute on while I was using his money interest-free.

I had to execute on people that owed me money at various times and, you know, it can take years. Also, by transferring my assets, he would have just ended up having nothing. And that just sort of further amplifies the need for prevention.

Mr. **Walkup**. How important is consumer awareness? Did you find that people were suspicious and did they investigate your advertisements?

Mr. **Seiders**. Initially, they did not, and I think prevention is the most important, which the Chief Postal Inspector and the Attorney General mentioned earlier, and they had some real good ideas on it.

Also, this morning, I noticed a couple of pamphlets here on prevention, making the consumer aware of what's going on. I think stuff like this is real good and should be expanded, and also people like myself can educate consumer protection agencies and investigators in the anatomy of swindles so they can detect them before they go too far. You know, we can help out a lot there.

But the very thing about prevention was done very effectively in the rare coin market. Former associates of mine who operated fraudulent coin businesses in the late sixties related to me how easy it was then, as compared to the late seventies, to swindle people in rare coin investments.

Also, in the 7 years that I conducted business, I noticed that customers were becoming increasingly more difficult to swindle because they were becoming much more aware. Of course, it can still be done, but coin swindles now are very difficult and short-lived, at best, in effect making it much more profitable just to run a legitimate coin business.

But within a surprisingly short period of a few years in the mid-1970's, various leaders in the coin industry greatly increased the consumers' awareness of fraud through publicity and coin journals, as well as giving seminars around the country.

I found it very interesting that years ago, many people I swindled did not even realize that it was possible to be swindled in rare coins. They just didn't know that such a thing could happen. If they did know, a lot of times, their greed prevailed and they just didn't want to know that they had been taken.

Of course, many people, as was said earlier, are too embarrassed to admit that someone got the best of them, so prevention is of the utmost importance. And through the efforts of the numerous numismatic leaders who were, as a matter of fact, partly responsible for my conviction in rare coin fraud, rare coins have become an excellent hobby as well as maybe one of today's best investment vehicles.

This has worked in rare coins and I think it would work in other areas and, as I pointed out earlier, it has been working a little bit. Not only must a customer-consumer be made aware of details of a swindle, but they must learn that there are few, if any, bargains in business.

We, as consumers, get only what we pay for, and many times less. A lot of times, even if commonsense is stronger than greed, consumers can be helpless against the fast-talking salesman. Consumers must be taught to thoroughly scrutinize a deal and hire an expert if the deal warrants.

As a matter of fact, when I started investing in real estate before I had become knowledgeable in real estate, I would always have an expert examine and appraise the prospective deal, because I didn't know anything about it and I certainly wouldn't put money into something unless I was about 99 percent sure of what I was doing.

If the seller said that I didn't have time for an appraisal because he had to sell quickly or someone else had made a firm offer, or whatever, you know, trying to pressure me into a quick sale, I'd just say, "Fine. I won't waste any more of our time." Then I would just move on to the next deal.

Finally, I feel that experts like myself, who have been convicted and are willing to share our secrets, should be enlisted in the fight against fraud and given credit against our prison sentences if we perform effectively.

Mr. WALKUP. Mr. Seiders, thank you very much for your testimony this morning.

[The prepared statement of Mr. Seiders follows:]

PREPARED STATEMENT OF HAP SEIDERS

Mr. Chairman: My name is Hap Seiders. I am 28 years of age. I am a convicted felon currently serving a 10 year sentence at the Morgantown, West Virginia Federal penitentiary for operating a fraudulent investment scheme involving rare coins.

I am pleased to appear before the Subcommittee as you look into the subject of frauds perpetrated against the elderly. I am here voluntarily to tell you about how such schemes are conducted, and to provide you with first-hand information that you could not otherwise obtain. My hope is that you will close some of the loopholes in the law which make it easy to defraud consumers. I was promised nothing in return for my testimony here this morning.

To begin with a little about myself, I was born in Harrisburg, Pennsylvania. I was raised in rural Perry County. After the 6th grade I had little interest in school. I got into trouble. I was convicted of committing a burglary and incarcerated in a facility for juveniles for about 10 months at age 16. By this time I had committed some 50 or more burglaries, all against businesses. At the detention center I came in contact with boys from the city who at this young age were already hardened criminals.

The experience at the detention center gave me an appreciation for school. I went back, completed my high school diploma and was trained as a computer specialist. I got a job which paid $77 a week in 1972. I married and had a family.

I had always been interested in coins. Though I had little money, I had managed to buy a few coins starting when I was eight years old. I continued to study coins and became something of an expert. While working as a computer specialist I had a small part-time legitimate business in coins on the side. It was not unusual for me to make more per week trading coins than I made in the computer field. I was soon promoted to systems analyst and learned a great deal about the world of business. My earnings from coins kept pace or exceeded my salary. I finally got the courage to let go of my job and try the coin business full time.

I did very well right from the beginning. I began to apply the business knowledge I had accumulated. My operation was legitimate until I learned how many dealers there are who dabble in counterfeit coins. Because the bulk of their business may be legitimate, they seldom if ever are caught. I began to introduce a few counterfeit coins in my operation out of a desire for even greater profits. I would take out ads in coin magazines and sell the items as genuine. When I did not get caught, I introduced more and more counterfeit coins.

In 1975, I got into trouble. The coin magazines are very strict. They investigate complaints very diligently and where problems are verified, those accused are refused the right to advertise. This happened to me not so much because of the discovery of counterfeit coins but because I had expanded tremendously and did not have the staff I needed so I was late in filling my orders. To get around the problem, I hired people to front for me and used different corporate names and addresses. I paid people $1,000 a week to provide this service for me. Then I purchased a list of names and began direct mail solicitations.

In the years 1976, 1977 and 1978 I developed a gross income of about $3 million a year. My net income would have been a quarter of a million dollars or more each year. Ironically, I lost a lot of money in legitimate business, investments in the stockmarket, restaurants and the like and legal fees and the requirement to make up restitution have eaten up the rest of what I made.

I ran a scheme in which I would offer rare coins for auction by mail. For example, consider a silver dollar which has been minted by someone other than the U.S. Government. I was an expert and could make a coin look any way that I wanted them to look. I would buy a coin for $100 that looks like a 1799 silver dollar. If it were genuine, it would be worth about $5,000. In my ad, I would say the highest bidder would get the coin. I played on people's greed.

There were any number of people who thought they would send in a low bid "just in case" to see if they might get a windfall. In the case of this coin, I would get several offers for say $3,500 to $4,100. I would accept the $4,100 offer and send an invoice. Those who received my invoices could not send me their money fast enough. They thought they were getting a real bargain and they wanted to push through their end of the deal before I changed my mind or something. When I received the cashier's check for $4,100, I sent the coin. The coin looks authentic to all but the most discerning and I had made myself a quick $4,000.

Mr. Chairman, I am not proud of what I did. I am very sorry. I felt some guilt at first but then I began to rationalize that I was not hurting anyone. I fooled myself into thinking that what I was doing was not a crime. We all get swindled one way or another. For example, the minute you drive a new car off the lot it is worth half of what you paid for it. I justified it to myself because some of my competitors in the field were doing it and none of them had been caught even though they boasted of schemes going back many years.

I particularly regret the times that I and my sales team defrauded the elderly. With the rate of inflation being what it is and human nature being the way it is, many people, particularly the elderly, were lured to make questionable investments. The elderly are vulnerable. They make easy marks for the con man. There are many reasons for this.

For one thing, they grew up in a different, more trusting, less cynical era. For another thing, the elderly usually have some money somewhere, either they bought a house 30 years ago and it has appreciated tremendously or a spouse has passed away leaving the proceeds from a life insurance policy. The third thing is that they are not accustomed to spending a lot of money or investing throughout their lifetimes and they make easy marks for fast-talking salesmen because of their limited business experience. The final factor is what I call a desire for immortality. They are often consumed with the desire to do something or leave a little something for their children or grandchildren. All these factors together with the notion of continuing to provide for themselves in independence throughout their later lives combine to make them easy targets, and deserving of special protections.

The one thing that I have learned by being in prison is there are a million schemes from phony stocks and commodities to land deals which can be targeted against the elderly and there are thousands of con men in prison who are being reeducated who can hardly wait to get out to try some of the new schemes that they have learned in prison. There is so much money involved and the chances of getting caught, prosecuted and sentenced to jail are so slim that many con men look at jail time as an acceptable professional risk.

I would urge you to strengthen the hand of the Postal Service whose investigators are effective but who are hamstrung by the lack of authority which prevents them from moving until there is evidence that a significant number of people have been injured. By then it is too late. The money is gone. I think the Internal Revenue Service should play a greater role investigating such frauds because tax fraud goes hand in hand with any other kind of business or investment fraud.

Finally, I think that experts like myself who have been convicted and who have worked for the government in the course of our trials should be enlisted in the fight against fraud and given credit against our sentences if we perform effectively.

I appreciate the opportunity to provide you with these views.

Mr. WALKUP. As our next panel comes forward, we will have a short break.

[A brief recess was taken.]

Mr. RUTHERFORD. Before we get into the final panel of the hearing, I do have this report on Scott Pryor that I want to share with you.

He is still running a high fever, and tentative diagnosis is of a lower intestinal injury which may involve bleeding. Surgery has been ruled out for today until more tests are completed, but that is again a tentative diagnosis. That is still, I'm sure, subject to additions or changes until the tests are completed.

Mr. WALKUP. Our next panel consists of Mr. Dennis Schick, executive director of the Arkansas Press Association, and Mr. J. E. Dunlap, Jr., publisher and editor of the Harrison Daily Times.

I would also like to invite Mr. Fred Storm, president of the Better Business Bureau of Arkansas, Inc., to join this panel.

Mr. Schick, if you would give your statement first, please.

TESTIMONY OF C. DENNIS SCHICK, EXECUTIVE DIRECTOR, ARKANSAS PRESS ASSOCIATION, ACCOMPANIED BY J. E. DUNLAP, JR., PUBLISHER, HARRISON DAILY TIMES AND THE BOONE COUNTY HEADLIGHT, AND FRED C. STORM, PRESIDENT, BETTER BUSINESS BUREAU OF ARKANSAS, INC.

Mr. SCHICK. My name is Dennis Schick. I am executive director of the Arkansas Press Association, which is a not-for-profit trade association whose members are the daily and weekly newspapers of Arkansas. Currently we have 147 members, virtually all newspapers in the State, including 33 daily newspapers and 114 weeklies.

Most of the other States in the country also have State press or newspaper associations similar to ours.

I am here today to speak on behalf of the newspaper industry, and to express our concern over the issue of mail fraud. Mail fraud affects virtually all of the over 1,750 daily newspapers and over 8,000 weekly newspapers in the country. Every newspaper in the country regularly receives requests for advertising space from mail order advertisers, both legitimate and fraudulent.

The problem is widespread, and probably is increasing as people attempt to do more of their shopping at home through the mail in order to save shopping time as well as gasoline and other transportation costs.

Newspapers and magazines are the primary media in which mail order ads appear. Most publishers accept their responsibility to their readers to try to screen out ads for products and services that may be fraudulent, recognizing their right to refuse any advertisement they want to in their publications.

But they also recognize their responsibility to legitimate advertisers to allow them access to the media of communication. It is when these two responsibilities clash that often difficulties arise for many publishers. And, of course, they turn to us, the press associations, and elsewhere, for help.

During the 2½ years that I have been in my current position, scarcely a week has gone by when our office has not received at least one telephone call from one of our publishers about some letter or insertion order requesting space for a mail order ad in his or her newspaper.

I understand from my colleagues across the country that this is a common occurrence and some of them have been in the business for 20 or 30 years, so that it is basically a longstanding problem.

Publishers want to know whether they should publish ads or not. They want to know if the product or service is legitimate. They want to know if the product is safe, whether their readers will receive what they send for, whether the firm ordering the ad will pay for the ad, among other things.

Of course, we usually don't have any information about these firms when the first call comes in, unless we have been alerted about them by other press associations in advance, so we usually have to tell the publishers that we'll look into the matter and call them back.

Some of the things that we, and other State press associations, do include:

Call the State press association in that State and ask them about the firm, what they know about the firm, and in the case that they don't know, they say they will call and get back to us.

We can call the mail order firm directly, which we have done periodically, particularly if there is an 800 number involved. We don't mind calling them up and just asking them to give us some information verifying their legitimacy.

We often will call the Chamber of Commerce and/or the Better Business Bureau in the particular city from which the ad originates, and we also may call the consumer protection division, or whatever it may be called, in the State's attorney general's office.

These are only some of the things that we can do. Usually, these set into motion a series of followup telephone calls by those people which eventually leads to some determination of whether it is advisable to the publisher to publish the ad or not.

Sometimes little or no information is available, particularly if the firm has changed names and addresses, and we can only tell the publisher to use his own judgment. We don't really have anything else to make that determination.

Some publishers will run the ads, of course, and others will turn them down, not wanting to gamble that their readers will get taken by some scheme.

We ask our publishers to send us the original or a copy of the letters and insertion orders they receive and either suspect or know to be fraudulent, so that we can keep these on file to refer to when other publishers call, or other States, and so that we can followup also by mail or other means, and also send these in to the postal authorities.

We share information with other press associations, and regularly depend on each other through the States, to try to catch these schemes that typically hop from one State to another. Even though sometimes the names and addresses of these firms change frequently, the basic method of operation doesn't change, and so by putting out an alert that this scheme is operating in a given State, we know that it's likely that within a short period of time, it will cross the borders into an adjoining State or even all the way across the country.

I have files I happen to have grabbed as I went out the door this morning, dating back for several years, of ad cautions, ad alerts, and, of course, specific examples of these letters and insertion orders.

By sending out large numbers of insertion orders, fraudulent firms assume that enough of them will be published to make a nice profit on the scheme. As you know, they can make a quick killing, then close their doors, change their address or post office box, and reopen perhaps right down the street, ready to start all over again.

The major problems with the self-policing activities that press associations and newspapers currently try to do are:

No. 1, they take considerable time and money of our people to make all these phone calls and look into them, of course.

No. 2, we are really not prepared to do the job properly. We are not staffed. We don't have the money, the time, or the training to do this investigative work.

No. 3, the information that we do find often is sketchy and incomplete, at best, which is hardly sufficient for us to recommend to a publisher that they should not run the ad or to run it.

Finally, many times the ads sound so legitimate and many even include payment, the publishers don't call us at all, or even seek confirmation from someplace else to see if the offer may be legitimate.

These firms often give all sorts of legitimate-sounding information in their letters or in their insertion orders, such as bank references, names of newspapers they claim to have done business with, and so forth. They may print an impressive letterhead. They may even type the space request on a standard-looking insertion order from a fictitious advertising agency.

Obviously, as you know, an account in a bank doesn't mean that the firm will pay its bills or that the account will even be there the next day, so even following up on all these things really isn't the answer to searching out and finding fraudulent firms.

All of these kinds of things, however, do tend to entice unsuspecting publishers into accepting and running the ads. Of course, that's why many of them do end up in the papers.

There needs to be some mechanism wherein fraudulent firms can be identified, tracked down, and closed more quickly. And, of course, the proposed bill does speak directly to those issues.

Since I am in the communications business, it is my feeling that there needs to be a communications network of some sort. You heard some of this earlier from the Chief Postal Inspector, as well as Attorney General Steve Clark, that there is a need for cooperation between agencies to share information.

It earlier was suggested that there be a hotline established and, again, this is an area of communication. It seems to me that there needs to be either some clearinghouse or some mechanism set up where an individual or a newspaper, a magazine, a company, can call and find out if there is any information available on these.

There is a lot of information around the country that is available on these firms, even though they move quickly. With our technology and computers, and so forth, it seems to me that there ought to be some way that we can tie into these kinds of things and find out whether they are legitimate or not.

At the local level, we have, of course, the Better Business Bureaus which we will hear about in a few minutes, that ought to be used more than they are. Obviously, the attorney general's office in these States and their consumer protection divisions also could be used in this attempt to spread the word on these kinds of activities.

Of course, also being in the communication business and with a promotion and advertising background, it seems to me that these don't really have much effect if the people who need them don't know about them, so some kind of a promotion campaign needs to be constructed to let the average individual, as well as firms, know about these kinds of activities.

One final thing that I have been told about from two other States, and I just received notice of in this morning's mail from one of my colleagues in Iowa. Just recently—this year—they passed what is called a "Business Opportunity Sales Act." This, as I understand from this communication and from another one in Washington called the "Business Opportunity Fraud Act," requires that before these kinds of firms can do business in a given State, they have to register in some central place, probably with the secretary of state's office, and be issued some kind of a license to practice in the State.

This letter from Iowa says that the No. 1 complaint in their office, as Attorney General Clark mentioned a few minutes ago, was fraudulent business opportunity schemes, and that with the passage of this Business Opportunity Sales Act, requiring these kinds of firms to register in the State before they can practice—and of course, corresponding to this was the insistence that the newspapers not run these ads until they had been issued the number from the State—that the problem had been reduced by 90 percent.

I think this is an excellent idea to solve the problem and I will do whatever I can to find a sponsor for such a bill in the Arkansas Legislature as well as to spread the word on the effectiveness of this throughout the other States.

I have asked one of our publishers, Mr. J. E. Dunlap, Jr., who is publisher of the Harrison Daily Times as well as the Boone County Headlight to tell how his paper is involved as typical of many of our newspapers across the country.

Mr. DUNLAP. I'm sorry that Senator Pryor could not be here this morning, because he was a struggling weekly newspaper editor back when I was a struggling weekly newspaper editor, and at that time I think we would have gladly accepted some of these ads.

I'm sorry I am having to shoot from the hip but I don't have anything prepared.

We have a policy in our advertising rate schedule that says, quote, "The publisher reserves the right to revise, edit, or reject any advertisement deemed objectionable for any reason."

So what I'm saying to you, for the last 27 years, we have not accepted any of these advertisements unless the new bookkeeper accidentically sent it through. Eighty percent or more of these ads come through the mail "Send tear sheets and a bill to the address below."

No. 1, all of our classifieds are cash in advance, which means that John Doe that lives up on North Sycamore and wants to sell his 1959 Chevrolet and calls you on the phone, he is going to have to come by and pay for it before it runs in the paper, so this eliminates about 80 percent of these ads that come in through the mail.

The other 20 percent, I just write across it, "We do not publish this type advertisement," and send the check or money order—most of them are checks—back to the firm. And I don't hear from them any more.

I have brought here today examples of—I picked up a typical editor's file from my desk before I left—of some of these advertisements that we get. Franchises, where you put up money to buy a franchise, are one of the biggest problems now. I know a man in my county that's got enough razor blades to shave everybody in the county from now on. He signed up one of these deals to put up his money but he never did get any vending machines. He still has the razor blades. He's a well respected businessman who didn't have anything to do after 5 o'clock.

I was visiting with him last week about it, and it's a story that I have told many times.

I guess what I'm trying to say is that small newspapers, which are about 114 weeklies in Arkansas and 33 dailies, operate our own Better Business Bureau. How many paper editors will take time to call the Better Business Bureau or call Dennis for a $3 classified ad? It doesn't make sense. If they are in financial straits, they will go ahead and take the $3 and run it, I guess.

I stopped yesterday and visited with two other daily newspapers of comparable size, Batesville and Searcy, and they are doing the same thing that I'm doing. We don't run their ads.

There is another—while I'm shooting from the hip, on the local level, I remember my background in my teens was in the grocery business, and we have a groceryman back some years ago that would run a page ad and in it, he would advertise, we'll say, pork and beans, six cans for a dollar, and I noticed something wrong, so I went by the same afternoon the ad came out, and he didn't have but about a dozen cans of beans on the shelf.

I think that sort of advertising, though, has gone by the way, but that's another type of fraudulent advertising.

By the way, the last week or two since I found out I was going to be on this panel, I signed up for one of these deals and step No. 2 is that I had to send them $20, and, of course, in their advertisement they will say that I'm going to get a T-shirt. I don't know what is on it, but I know I'm going to get a T-shirt, and they say, in small print down here, "Your money will be refunded if you're not satisfied." So I'm going to see whether it's going to be refunded or not.

Some of them have already gone out of business. There was one that said send a dollar for information on, quote, "how to report," end of quote.

So I got this letter back that said, "The information for this report is no longer available," and sent my canceled check back.

But I have been pursuing some of these ads that I have filed here, and find that they are rather ridiculous. Let me show you a few here. This is what my bookkeeper usually gets. It says, "File. Do not run." And I keep them on file.

It says, "Gentlemen, please run the following classified ad in the next available issue of your publication. If you prefer payment first, send bill. If not, then run the ad and bill me later I would like the ad to run for 4 days only, if possible.

"Classified heading. Money-making opportunity, $353.88 weekly; $58.90 daily. Homework to start immediately. Make this possibility a reality. Free details. Write."

So if we don't have a suitable heading, we can put that ad about anywhere we want to, I guess.

Here is one, and this is the front and back of the letter. If you will note, the name only appeared in two small instances. It says down here I got to send $10. "Enclosed is $10. Please rush cash, cashing in on circular mailing to me by first class mail. I understand that if I am not completely satisfied, I can return it within 30 days for a full refund." They advertise a full refund.

But down in it, they have underlined some real important adjectives. "Tip of the iceberg. Raking in the cash. Money tree. Pleasant work. Simple work. No previous experience. Free supplies " But I think the best one was over here. "All of this without breaking any laws." They may be correct. I don't know whether they break any or not, but we don't run that kind of advertising.

Here is one that really caught—this was a display. "Is inflation eroding your capital? We just find alternatives to keep up with inflation. If you are not earning 25 to 30 percent on your capital, send for our free brochure on how to beat inflation through T-bills, T-bonds and Ginnie Mae's. Minimum investment, $15,000. Call or write."

Here's one. "Super biz. The little known business of the future. You can make $100,000 a year working from home, starting with little or no money. For free, no-obligation information, write."

Sometimes I think some of us are in the wrong business selling newspapers for 15 cents when we could be making $100,000 a year with little or no investment.

The list goes on and on of these type advertisements. Once again, I think the newspapers, especially the dailies, the larger weeklies in Arkansas are policing their own business, and they are not running the ads, is what I'm trying to say.

Mr. WALKUP. Thank you very much, Mr. Dunlap.

Mr. Storm, would you like to give your statement?

Mr. STORM. Thank you very much, Mr. Chairman.

My name is Fred Storm. I am president of the Better Business Bureau of Arkansas, and today I am pleased to represent the Nation's Better Business Bureaus at this hearing on mail order fraud.

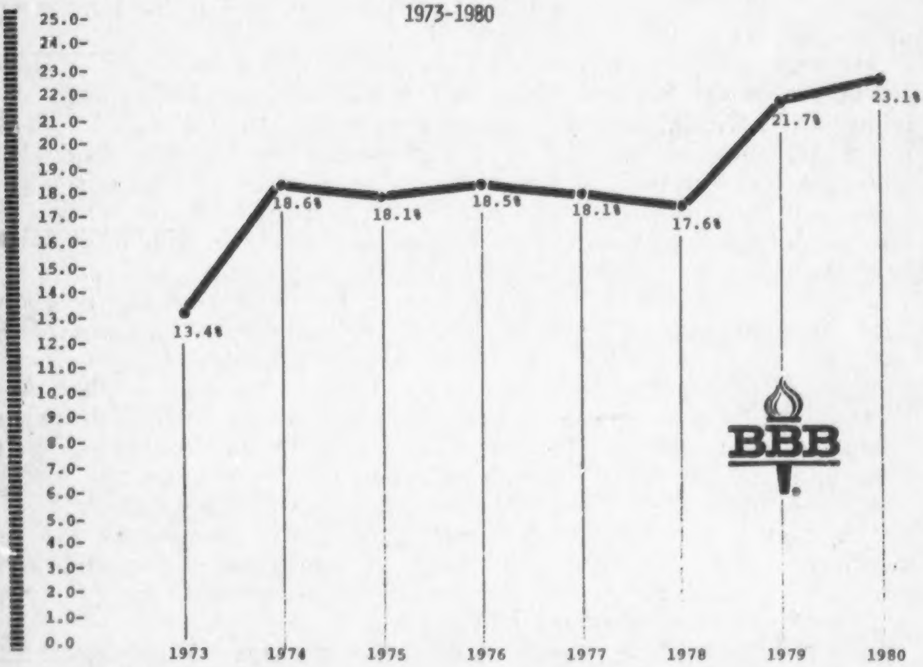
The mail-order business is big. It's billions of dollars big, and it involves many companies, large and small, legitimate and not legitimate. We in the Better Business Bureau are familiar with this industry, because it generates more complaints and inquiries to our offices than any other.

The 151 Better Business Bureaus handled over 6.5 million consumer inquiries and complaints during 1980. That's more than any other public or private institution. This gives us a data base for providing information that we think can be useful and helpful when you consider remedial legislation.

First, let's look at the complaint picture for mail orders. We have attached a chart to our statement, showing that the mail order complaint category has climbed from 13.4 percent of our total complaints in 1973 to 23 percent in 1980. And our totals through June of 1981 show a continued increase to 24.1 percent, almost one-fourth of our entire consumer complaint workload.

[The chart referred to follows:]

MAIL ORDER COMPLAINTS
AS A
PERCENT OF TOTAL
BBB COMPLAINTS
1973-1980



One especially troublesome area in this mail order category is the work-at-home schemes that continue to prey on those consumers who can least afford to lose money.

Last year, the national offices of the Better Business Bureaus, the Council of Better Business Bureaus, conducted a nationwide investigation of 55 work-at-home promotions that were geared to attract the elderly, fixed-income individuals, the handicapped, anyone struggling to meet the ever rising cost of living. The council learned that thousands of these people became victims of unscrupulous promoters using misleading advertising claims.

The promotions investigated by the council were the time-worn and widespread work-at-home schemes that advertisers use to create false expectations of high earnings and, in most instances, gainful employment. The investigation revealed that advertisements promising hundreds of dollars for a few hours' work were simply lures by the advertisers to sell information on how to set up your own business or conduct the same scheme as the advertisers.

No actual employment existed; instead, would-be workers would have had to first pay for details purporting to show how to make the claimed income, and then invest sums of money in ads, envelopes, postage, and sundry other items.

In an effort to encourage advertising media to obtain all the facts before deciding on the acceptability of work-at-home advertisements, a council "media bulletin" on the subject was distributed to hundreds of newspapers, magazines, radio, and television stations.[1]

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[1] See p. 48.

In addition, the Council of Better Business Bureaus referred to postal authorities those work-at-home schemes which appear to be frauds, an effort that was joined by all Better Business Bureaus. I might add here, which is not a part of the statement in writing, that we sent over 6,000 complaints to an inspector in the northeast, at his request.

To some extent, these efforts, together with increased efforts of the U.S. Postal Service inspectors, have reduced the inquiry and complaint activity for work-at-home schemes. In our war on these fraudulent promotions, the best way to identify them is when the consumer calls in to the Better Business Bureau to find out if the promotion is legitimate. The victim of a work-at-home scheme is not as quick to complain when he finds he has been bilked, perhaps because he is embarrassed that he "fell for it."

In the first 6 months of 1980, Better Business Bureaus received over 150,000 public inquiries about work-at-home schemes. But with the combined efforts of Better Business Bureaus, media, and the postal inspectors, these inquiries dropped to only 45,000, less than one-third of the previous year. No small reason for this dramatic change has been the fact that the U.S. Postal Service has closed down some 3,300 promoters of home-work schemes in recent months.

This is only a part of the problem but it is still a big one. As noted above, mail order complaints generally continue to increase which, combined with the significant drop in work-at-home complaints, means that all other areas of mail order complaints are going up even more dramatically than before.

The private, self-regulatory efforts of organizations like ours can help. We are pleased to note other significant steps being undertaken in this area by the Direct Mail Marketing Association, such as their recent joint public information campaign with the Federal Trade Commission.

The Better Business Bureaus aid thousands of public service announcements with millions of impressions, telling the American public to check out such promotions. We also issue hundreds of thousands of brochures to the public, and I am attaching samples with my statement.[1]

Here are some of them. "Tips on Mail Order Profit Mirages." "Tips on Work-at-Home Schemes."

As I mentioned, we have distributed over a hundred thousand of these in the last year and will continue to do this. We can prevent many from becoming victims of mail order fraud, but millions more fall prey to the subtle blandishments offered by some clever promoters.

Better Business Bureaus do not have the authority or power to stop mail order fraud. We can teach consumers to avoid it; we can identify it, and we can refer it to postal authorities, but only they can take steps to stop it.

Now let me give you some examples of how mail order fraud affects your constituents in Arkansas.

During the first 6 months of 1981, Arkansas Better Business Bureau processed over 12,000 company report requests and some 2,400 general inquiries. Over 20 percent of these were in the mail order and/or home work scheme category. When it is assumed, as a result of surveys and in the light of past experience, that we receive about 10 percent of the inquiries that we should expect, you can see the enormity of the problem.

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[1] The brochures referred to have been retained in the subcommittee files.

We were plagued last year and earlier this year by advertisements from a firm in Texas that consisted of newspaper, magazine, and direct mail pieces on a particular work-at-home scheme. We checked with the appropriate bureau in Texas and determined that the company did not meet standards. Through the efforts of the Better Business Bureau system and the postal authorities, the company was served with a postal stop order. Less than 1 month later, the same program, under a different company name, began. Once more we checked and found it to be the same individual with a new post office box number and a new company name, still doing the same thing. It's going on today in Arkansas.

Earlier this month, I presented a program to a school group on consumer education. While there, the teacher had an ad for a home-work program with a Little Rock post office box number from a national magazine. The company that ran the ad was in my office some time back and was advised that the scheme was exactly that, a scheme, and yet the ad was still running and apparently successful.

If there are any questions, I would be happy to respond to them at this point.

Mr. WALKUP. Gentlemen, thank you very much for your very informative statements this morning.

Mr. Dunlap, let me ask you if it is your impression that the incidence of questionable advertising has increased?

Mr. DUNLAP. Very definitely so. I am averaging, just off the top of my head, returning around three to four ads—returning three ads a week that have money with them. Others, I just file, but it is increasing because of the time.

Mr. STORM. I was told by a newspaper advertising executive this past week that they had turned down more ads in the last 2 months than they had in the last year.

Mr. WALKUP. Mr. Schick, when you get an inquiry from a member newspaper and determine that the advertiser is not legitimate, do you forward that information to other members of the association? And if so, how?

Mr. SCHICK. Yes, we have a weekly newsletter that we feel is frequent enough to alert other members that this is happening.

Obviously, when these things come in as fast as they do, maybe even once a week is not quick enough, but we normally have found that to be successful.

Mr. DUNLAP. Let me add: In the daily field, we have a national representative, ad representative, that represents us. For instance, the one that represents me represents about 20 other daily newpapers in Arkansas.

These are largely display ads, larger ads, the diet pill sort of thing, and when we get one that looks questionable, we just call and they usually put their finger right on it because they have representatives in other cities that they can send. So we probably have more protection in the dailies than the weeklies do. Much more protection than the weeklies do.

Mr. **Walkup**. Mr. Storm, let me ask you what type of information you provide when you receive an inquiry about a business?

Mr. **Storm**. We go to our file and report whether or not that company meets our Better Business Bureau standards as far as advertising and as far as handling complaints is concerned, and some of the background on the company that we have, which is not privileged information.

This includes representation of their clients in the past so that they can be checked out by the inquirer, or on down the line. Primarily, though, we work on the basis of how they have handled complaints in the past.

Mr. **Walkup**. Let me ask all of you to comment on this question. How cooperative do you find various sources of information on businesses and how useful is the information you get?

Mr. **Storm**. Well, it depends on what sources you are talking about. We find—in our particular inquiry system, we go through the references that are given on a standard business questionnaire which we ask the company to fill out, if the company is doing business in another State, we check with the Better Business Bureau over there, and there are 151 Better Business Bureaus in existence at the present time.

And, Dennis, that might be one of your information systems.

We share information totally in the Better Business Bureau system. Each one of us publishes a newsletter at least monthly. I get 150 of those newsletters that come across my desk every month, and we send every one of the other bureaus my newsletter every month, so we are in contact constantly with one another, also by telephone and the news alert which we publish frequently.

So that is a source of information for us on the companies, particularly fraudulent operations. We have found out over the years that they start in California and then they move to Oregon and then they move to Oklahoma, and then we start looking for them in Arkansas because they're on the way.

We can identify these people very readily.

Mr. **Dunlap**. The Better Business Bureau does a good job, but as he said, there is only one in Arkansas and it's in Little Rock. So the little publisher at Jasper, Ark., who has a circulation in that area, he doesn't know when that ad comes in whether it's legitimate or not, so he publishes it, or we say he does, and then his readers are going to see it. So we need to expand the information some way to reach into these areas, especially in the rural areas, who now may be looking for work, looking for the dollars.

I know in the Ozarks that is true.

Mr. **Storm**. We have in Arkansas—and, of course, we are one of the few States that does have, an incoming WATS line and anyone in the State can call me at no cost to them.

Mr. **Walkup**. Mr. Schick, let me just mention that if any statements come in from other press associations, and you indicated that possibility, we would welcome those.

There may be additional questions submitted to you, written questions for the record, but I want to ask one final question now to all three of you.

Could you give any suggestions as to what can be done at the local level by community groups to help deal with this type of activity?

Mr. STORM. We are constantly involved in it. In fact, I had made three presentations last week, and have five more scheduled for the elderly people in the central Arkansas area, and I think education is the answer. I've mentioned that once already, and I would like to reiterate that.

We, in the Better Business Bureau system, have found over the years that the best answer is an informed consumer, and we do everything within our power to keep them informed.

We meet with school groups and elderly citizens, and we will continue to do so. I personally feel that that is the best answer to the problem. Legislation is certainly helpful; there's no question about it. It has been very helpful in the past and I think it can be more helpful in the future.

I would agree with the gentleman who made the point earlier that maybe the fines should be heavier. Mr. Fletcher mentioned that Mr. Wolfson, who was prosecuted in California, got a $5,000 fine and a 6 months' sentence and 5 years probation for collecting $1½ million off the unsuspecting public. That's not a very big fine nor sentence.

It is also providential, and I would like to comment on that, that the lady who testified about the contractor who remodeled her home, the gentleman is back in business and just got through ripping off the Governor's cook.

Mr. SCHICK. Because of my position and responsibility, first and foremost, to our members, but with equal concern for the average individual, it is my intention to redouble our efforts to try to keep these kinds of ads out of the newspapers themselves.

It is a little discouraging to me when we do find information that is specific about a fraudulent scheme and it's been worked in other areas, and so forth, and we put it in our weekly newsletter which goes to all of our members, and still some of the newspapers run the ad, because, as Mr. Dunlap was saying, there are marginal mom-and-pop shops that need the money and there's a $56 check, and it's pretty hard to send that check back.

Or maybe they don't read the newsletter, they're so busy. But for whatever reason, some of our communication efforts and education efforts still aren't getting out.

As I was sitting here and thinking about an earlier suggestion that was made—I believe that they were saying the Post Office Department actually ran an ad of a work-at-home, or one of these schemes, in order to try to identify people that responded to it—this gave me an idea and I jotted down a quick ad here.

I'm going to, because of my background in advertising and I can do this kind of thing, I'm going to construct a series of ads that look just like work-at-home and these fraudulent ads, make them up to look like them and send them out to the newspapers and ask them to run them in their classified section, and what it will say in the ad itself is, "Now that you have read half this ad, does it sound too good to be true? Well, that's because it is. Don't respond to these," et cetera.

This is something that we can do, and I think our publishers will run these as public service ads at no cost. There are some things like that that we can be doing and should be doing, and there really would be no need for, in my opinion, some of these other kinds of things if the media would police themselves a little more and not run the ads at all. Like Mr. Dunlap said, his newspapers just don't run the ads at all, period.

That means that some legitimate ads aren't going to get in the paper, unfortunately, but that's the way it goes. But I think that taking that kind of stance and that kind of self-policing method is something that I would like more of our papers to do.

Mr. DUNLAP. I might have more input as soon as I get the answers back from some of the letters that I have written in the last 2 weeks. I don't think that is entrapment; I am just seeking information.

Mr. WALKUP. We certainly appreciate the contributions all you gentlemen have made and thank you very much.

[The prepared statement of Mr. Schick and additional material submitted by Mr. Storm follow:]

Statement before the
SUBCOMMITTEE OF CIVIL SERVICE, POST OFFICE AND GENERAL SERVICES
OF THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

at a public hearing on
"Postal Fraud: The Need for Greater Law Enforcement Power."
October 13, 1981
Little Rock, Arkansas

My name is C. Dennis Schick and I am Executive Director of the Arkansas Press Association, a not-for-profit trade association whose members are the daily and weekly newspapers of Arkansas. Currently we have 147 members -- virtually all newspapers in the state -- including 33 dailies and 114 weeklies.

Most of the other states in the country have state press or newspaper associations similar to ours. In addition, there are several regional press associations and two major national press associations -- the National Newspaper Association (NNA) whose members are mostly weekly newspapers, and the American Newspaper Publishers Association (ANPA), whose members are mostly daily newspapers.

I am here today to speak on behalf of the newspaper industry, and to express our concern over the issue of mail fraud. Mail fraud affects virtually all of the over 1750 daily newspapers and over 8000 weekly newspapers in the country. Every newspaper in the country regularly receives requests for advertising space from mail order advertisers -- both legitimate and fradulent. The problem is widespread, and probably is increasing as people attempt to do more of their shopping at home through the mail in order to save shopping time as well as gasoline and other transportation costs.

Newspapers and magazines are the primary media in which mail order ads appear. Most publishers accept their responsibility to their readers to try to screen out ads for products and services that may be fraudulent, recognizing their right to refuse any advertisement they want to in their publications. But they also recognize their responsibility to legitimate advertisers to allow them access to the media of communication. It is this clash between responsibilities which often causes difficulties for many publishers...and they look to us and elsewhere for help.

During the two-and-a-half years I have been in my current position, scarcely a week has gone by that we have not received at least one telephone call from one of our publishers about some letter or insertion order requesting space for an ad in his or her newspaper. Publishers want to know whether they should publish the ads or not. They want to know if the product or service is legitimate. They want to know if the product is safe, whether their readers will receive what they send for, and whether the firm ordering the ad will pay for the ad...among other things.

Of course we usually don't have any information about these firms when the first call comes in, unless we have been alerted about them by other press associations. So we usually have to tell the publishers we'll look into the matter and call them back.

Some of the things we and other state press associations do include:

(1) Call the state press association in that state and ask them about the firm;
(2) Call the mail order firm directly, asking pertinent and leading questions;
(3) Call the Chamber of Commerce and/or Better Business Bureau in that city; and
(4) Call the Consumer Protection Division of that state's Attorney General office.

Usually these set into motion a series of follow-up telephone calls by those people, which eventually leads to some determination of whether it is advisable for the publisher to publish the ad or not. Sometimes little or no information is available (particularly if the firm has changed names and addresses) and we can only tell the publishers to use their own judgment. Some will run the ads, of course, and others will turn them down, not wanting to gamble that their readers will get taken.

We ask our publishers to send us the original or copy of the letters and insertion orders they receive and suspect or know to be fraudulent. We keep these on file to refer to when other publishers call. We even share such information with other state press associations.

By sending out large numbers of insertion orders, fradulent firms assume that enough of them will be published to make a nice profit at the scheme. They can make a quick killing, then close their doors, change their address and post office box and reopen down the street ready to do it all over again.

The major problems with the self-policing activities that press associations and newspapers currently try to do are (1) they take considerable time and money; .(2) we really are not prepared to do the job thoroughly; (3) the information we can find often is sketchy and incomplete, at best (hardy sufficient to make intelligent decisions), and (4) many times the ads sound so legitimate (and even include payment with the ad) that publishers do not call us at all or seek confirmation elsewhere.

The firm may give all sorts of legitimate-sounding information in their letters, such as bank references and newspapers they claim to have done business with. They may print an impressive letterhead and even type the space request on a standard-looking insertion order from a ficticious advertising agency. But an account in a bank doesn't mean that the firm will pay its bills, or that the account will even be there the next day. But all these do tend to entice unsuspecting publishers into accepting and running the ads.

There needs to be some mechanism wherein fraudulent firms can be identified, tracked down and closed more quickly. There also needs to be a communications network wherein individuals, companies, organizations and media can establish the legitimacy of firms before running an ad or responding to an ad. Maybe a Hotline could be established nationally within the postal system in a division already set up for it. Maybe it could (and should) be established in existing organizations, such as the Better Business Bureaus at the local level, and/or the Attorney General offices at the state level. In addition to stepping up activities in these ways, an extensive promotion campaign (perhaps through the Advertising Council) would call attention to the need for people to report fraudulent mail order schemes to proper authorities, as well as to use the communications network to check on potential fraudulent schemes.

I have asked the publisher of the Harrison Daily Times and Booneville Democrat, to tell how a typical publisher is involved with these kinds of activities,

Mr. J.E. Dunlap, Jr.

ADDENDUM

The following, although not included in my oral testimony, are concerns which several of my colleagues have expressed about the proposed bill:

1. PAGE 1, LINES 12-16; and PAGE 2, LINES 1-14: SUBPOENA POWER.

Concern has been expressed that these sound like an on-the-spot search and seizure which might include the newspapers (and magazines) themselves. If these cannot be expressly excluded, then at least a hearing should be specified, with the specific finding to include (1) a showing of relevancy, (2) that no alternative source was available to obtain that information, and (3) that it would accomplish what it set out to do (i.e., to gain specific information wherein the investigation would move forward).

2. PAGE 2, LINES 31-33.

It is unclear whether this description would extend to newspapers themselves. For instance, newspapers conduct football contests, guess-when-the-temperature-will-hit-100-degrees contests, various circulation promotions, etc. Also, advertisers in newspapers, such as supermarkets, regularly conduct various contests and the like. The wording here is too broad.

3. PAGE 3, LINES 6-12: EXEMPTION OF NEWSPAPERS.

Since mail order ads appear regularly in magazines, probably they should be added to the exemption. Further, although "inserts" and "Sunday supplements" are considered to be integral parts of "newspapers," perhaps these should be included by name also.

4. PAGE 4, LINES 11-18; AGENT OR REPRESENTATIVE OF THE ADVERTISER.

Although it appears to be clear that this wording does not refer to the newspaper itself, a loose reading or other interpretation could claim the newspaper to be the advertiser's agent or representative. Perhaps some rewording would help here.

5. OVERALL.

There is some concern that the emphasis and direction of this legislation is with the postal department rather than with the Justice Department, which is responsible for law enforcement. Giving subpoena power to postal inspectors might result in harrassing activities by local postal authorities who might have some gripe with the local newspaper, for instance.

ADDITIONAL MATERIAL SUBMITTED BY MR. STORM

MEDIA BULLETIN
An information advisory on matters of interest to the advertising industry

Council of Better Business Bureaus, Inc.
1150 Seventeenth Street N.W.
Washington D.C. 20036

March 1980

WORK-AT-HOME ADVERTISING

Widespread misleading and deceptive advertising practices in the offerings of work-at-home opportunities were found in a recent national investigation by the Council of Better Business Bureaus. The CBBB encourages media to observe the following recommendations prior to accepting earn-money-at-home advertising:

1. Require advertisers to submit copy, and all materials (flyers, literature, booklets, etc.) to be supplied to respondents to the proposed advertising, far enough in advance of publication to allow sufficient time for media to determine the bona fides of the offer, to investigate any references and to obtain any data available on the advertiser and principals from the local Better Business Bureau and U.S. Postal Service.

2. Permit no advertisement to contain any implication of employment, whether by placement of the ad in employment related columns or through its text, unless the advertiser does in fact provide actual employment and submits adequate data in support thereof.

3. Permit no representation to be made which claims or implies, directly or indirectly, any earnings or income unless the advertiser (1) does in fact make payment of the claimed earnings directly to persons participating in the offered opportunity, and (2) submits current, objective data which conclusively substantiates the claims, including the names and addresses of a representative number of persons who are currently and regularly earning the claimed income.

4. Whenever the terms "guarantee," "guaranteed," and the like are used in advertising, require full disclosure of the specifics of the "guarantee."

The above recommendations are based on a nationwide investigation by the Council of Better Business Bureaus of 55 work-at-home advertisements, randomly selected from newspapers and magazines, which disclosed that those wanting to supplement their incomes by investing in work-at-home opportunities were losing their money to unscrupulous promoters using misleading advertising claims. Work-at-home schemers continue to prey on those who can least afford to lose money - the elderly, fixed-income individuals, students, the handicapped - anyone struggling to meet the ever rising cost of living.

Lures to Sell Information

The promotions investigated by the Council were the time-worn and widespread work-at-home schemes that advertisers use to create false expectations of high earnings and, in most instances, gainful employment. The investigation revealed that every advertisement promising, for example, "$500/THOUSAND stuffing envelopes," "$250.00 PROFIT/thousand possible stuffing-mailing envelopes," "$60/HUNDRED addressing envelopes. Guaranteed earnings.," was simply a lure by the advertiser to sell information on how to set up one's own business or conduct the same scheme as the advertiser's. No actual employment existed; instead, would-be workers would have had to first pay for details purporting to show how to make the claimed income, and then invest sums of money in ads, envelopes, postage, mailing lists and sundry other items.

A typical advertisement for a work-at-home opportunity claimed "$356.00 Weekly Guaranteed. Work two hours daily at home." Investigation revealed that the "guarantee" did not apply to the earnings, but only to a refund of the $15 paid for how-to details if the worker's own efforts failed to produce the weekly income. Another typical ad promised "$1,000 - $3,000 monthly stuffing envelopes." Council's shoppers answering such ads did not receive envelopes for stuffing as expected, but merely promotional material requiring payment of $8 to $25 just to buy the details on money-making plans. And to make matters worse, to pursue the plans would have required expending several hundred dollars.

Pyramiding Scheme

The initial details the aspiring worker receives about a work-at-home plan usually turn out to be booklets telling how to go into the business of placing the same kind of ad the advertiser ran in the first place. In short, the work-at-home scheme participant begins recruiting others for the same business of offering a work-at-home plan. It is not difficult to see that this system is one which feeds on continuous recruitment of participants offering the same plan; by geometric progression, soon everyone in the country would be trying to sell envelope stuffing plans in true pyramid fashion.

CBBB Recommendations

The Council's recommendations have been set forth at the outset of this bulletin. We urge media to require advertisers to submit in advance of publication the data outlined, and in particular, substantiation of any earnings, employment and "guarantee" representations.

Industry Standards Department

BBB NATIONAL ACTIVITY SUMMARY

JANUARY THROUGH JUNE

1981

TOTAL CONSUMER CONTACTS			3,395,765	100%
Inquiries			2,577,794	75.9%
Company Report Requests	1,731,528	(67.2)		
General Inquiries	846,266	(32.8)		
Complaints			817,970	24.1%
Letters Requested/Forms Sent	352,545	(43.1)		
Hot Line Referrals	13,905	(1.7)		
Referrals Back to Co.	55,622	(6.8)		
Referrals to Other Sources	146,417	(17.9)		
Info./Counseling Only	249,481	(30.5)		

****

COMPLAINTS RECEIVED FOR PROCESSING		277,346
Presented Complaints Closed (Overall Settlement Index = 71.3%)	185,814	
Complaints Pending	24,532	
Administratively Closed Invalid	7,159	
Not Within BBB Purview	9,841	

****

- Total Consumer Contacts for the first six months of 1981 were running close to the same levels as for the same period in 1980 (3,395,765 for '81 vs 3,474,416 for '80).

- Initial complaint calls were up about three percent, but Closed Complaints were down about seven percent. It appears that more and more complaints are being resolved at the informal level. For example, complaints resolved through information or counseling only, were up 15% over the same period last year (249,481 vs 215,177). "Hot Line Referrals" also increased by over 30% (13,905 vs 10,610).

- Inquiries and complaints about work-at-home promotions were down sharply. Just over 45,000 inquiries were received for the first six months of 1981 compared to over 153,000 for the same period in 1980. Complaints about work-at-home also were down 42 percent.

- Complaints about Used Car Dealers dropped 44%, moving the category from the 15th rank in volume, to 26th.

- General Mail Order complaints were down 8 1/2%, but still ranked first in the list of top-volume categories, with 21.4% of all complaints.

- Home Remodeling Contractors moved from 8th to 12th rank, with a 23% decrease in volume.

- No other major shifts were noted among the top 15 inquiry and complaint categories.

TOP TEN COMPANY REPORT REQUEST CATEGORIES

RANK	TYPE OF BUSINESS	NUMBER	PERCENT OF TOTAL
1	Insurance Companies	93,536	5.4%
2	Misc. Home Maintenance Co.s	91,402	5.3
3	> Mail Order Companies	79,281	4.6
4	Home Remodeling Contractors	64,395	3.7
5	Roofing Contractors	47,588	2.7
6	> Homework Companies	45,596	2.6
7	Heating & Central Air Condt. Co.s	40,345	2.3
8	Independent Auto Repair Shops	36,973	2.1
9	Franchised Auto Dealers	36,698	2.1
10	Misc. Financial Services	36,375	2.1
11	Vacation Certificate Co.s	31,541	1.8
12	Trade & Vocational Schools	31,154	1.8
13	Misc. Health & Personal Services	29,144	1.7
14	Exterminating Service Co.s	28,461	1.6
15	Misc. Automotive	28,141	1.6

(Total All Types of Business = 1,731,528)

TOP TEN COMPLAINT CATEGORIES

RANK	TYPE OF BUSINESS	NUMBER	PERCENT OF TOTAL
1	> General Mail Order Co.s	39,701	21.4%
2	Franchised Auto Dealers	8,549	4.6
3	Home Furnishings Stores	6,056	3.3
4	> Magazines, Ordered by Mail	5,030	2.7
5	Misc. Home Maintenance Co.s	4,920	2.6
6	Independent Auto Repair Shops	4,772	2.6
7	Department Stores	4,563	2.5
8	Misc. Automotive	3,829	2.1
9	Television Servicing Co.s	3,480	1.9
10	Insurance Companies	3,325	1.8
11	Dry Cleaning & Laundry	3,251	1.7
12	Home Remodeling Contractors	3,021	1.6
13	Apparel & Accessory Shops	2,882	1.6
14	Appliance Service Co.s	2,587	1.4
15	Misc. Health & Personal Ser. Co.s	2,233	1.2

(Total All Types of Business = 185,814)

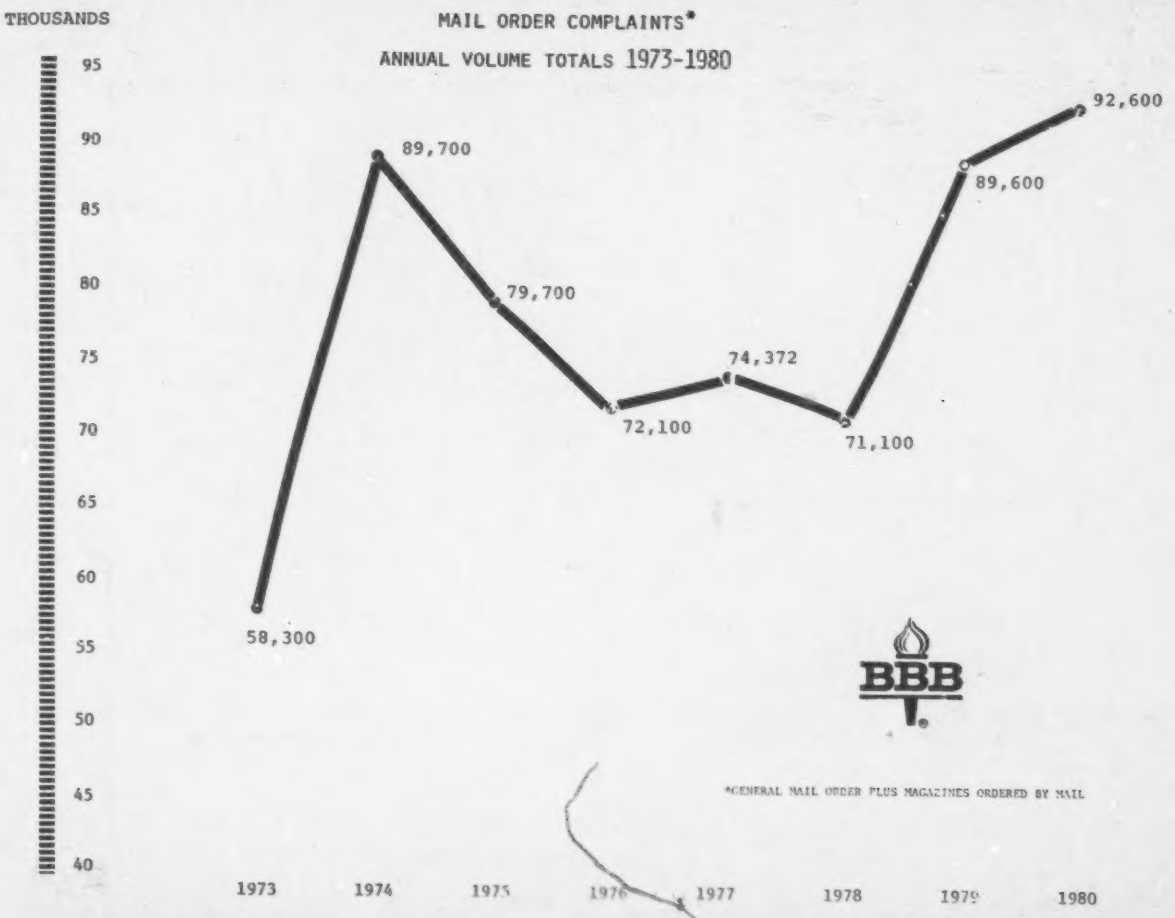
SUMMARY OF
FORMAL MAIL ORDER COMPLAINTS
PROCESSED 1973-1980

YEAR	MAIL ORDER VOLUME GENERAL	MAGAZINES	TOTAL MAIL ORDER	PERCENT OF TOTAL	TOTAL ALL TYPES OF BUSINESS
1973	*	*	58,323	13.4%	435,935
1974	75,770	13,917	89,687	18.6	481,941
1975	67,359	12,368	79,727	18.1	439,486
1976	58,562	13,522	72,084	18.5	390,685
1977	63,150	11,222	74,372	18.1	409,543
1978	61,321	9,781	71,102	17.6	403,706
1979	78,990	10,642	89,632	21.7	412,745
1980	82,264	10,379	92,643	23.1	401,476
				24.1	
Eight-Year Totals			627,570	18.6%	3,375,517

* Separate figures were not maintained until 1974

MAIL ORDER COMPLAINTS*

ANNUAL VOLUME TOTALS 1973-1980



*GENERAL MAIL ORDER PLUS MAGAZINES ORDERED BY MAIL

COUNCIL OF BETTER BUSINESS BUREAUS

SUMMARY OF DETAILED COMPLAINT TYPES
GENERAL MAIL ORDER
Year-End
1980

SAMPLE BASE* 12,081 100.0%

(0) ADVERTISING PRACTICES Percent Total .8%

	Pct. of Category	Pct. of Total
01. Alleged non-availability of the advertised product/service with or without characteristics of bait	32.0%	.26
02. Alleged misleading or deceptive description of the performance or quality characteristics of the product or service	30.9	.25
03. Alleged misleading or deceptive representations of the availability, terms and charges as related to credit	2.1	.02
04. Alleged misleading, deceptive design or labeling as to the contents, weight, size, value, etc. of packaged goods	6.2	.05
05. Alleged misleading, deceptive, or false representations concerning guarantees or warranties	-	-
06. Alleged non-disclosure of important information, the inclusion of which was necessary to avoid misunderstanding or deception as to the nature of the offer	13.4	.11
07. Alleged misleading, deceptive, or false representations relating to price of the product or service (e.g. comparative price claims)	8.2	.07
08. Art work or layout in advertising which has the capacity to mislead	3.1	.02
09. Other	4.1	.03

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* Based on monthly reports from a sample of 22 geographically varied Better Business Bureaus.

(1) SELLING PRACTICES — Percent Total 1.7%

		Pct. of Category	Pct. of Total
10.	An alleged misrepresentation or deception (other than through advertising) relating to the performance, quality, characteristics, price, availability, etc. of a product or service	26.8	.46
11.	Any questionable sales method, technique, scheme or approach such as model home referral, homework, unordered merchandise deceptive employment recruiting, etc.	66.5	1.15
12.	Criticism or abusive, discourteous, high pressure treatment by a salesperson	1.9	.03
13.	Other	4.8	.08

(2) DELIVERY — Percent Total 57.9

		Pct. of Category	Pct. of Total
20.	Non-delivery of merchandise	96.5	55.92
21.	Merchandise received which is not the same as ordered	2.5	1.47
22.	Merchandise delivered in damaged condition	1.0	.52

(3) REPAIR — Percent Total .5

		Pct. of Category	Pct. of Total
30.	Loss or no return of item from repair	21.3	.11
31.	Unsatisfactory repair	57.4	.29
32.	Unauthorized repair	1.6	.01
33.	Failure to provide repair within a reasonable time or at the time promised	19.7	.10

(4) GUARANTEE/WARRANTY Percent Total .5

		Pct. of Category	Pct. of Total			Pct. of Category	Pct. of Total
40.	Failure to honor written guarantee	89.4	.49	41.	Failure to honor verbal/ implied guarantee	10.6	.06

(5) PRODUCT QUALITY/PERFORMANCE Percent Total 1.4

		Pct. of Category	Pct. of Total			Pct. of Category	Pct. of Total
50.	Defective/shoddy	98.8	1.37	51.	Hazardous/unsafe	1.2	.02

(6) REFUNDS PROMISED BUT NOT GIVEN Percent Total 13.9

(7) OUT OF BUSINESS Percent Total .4

(8) UNSATISFACTORY SERVICE Percent Total 8.6

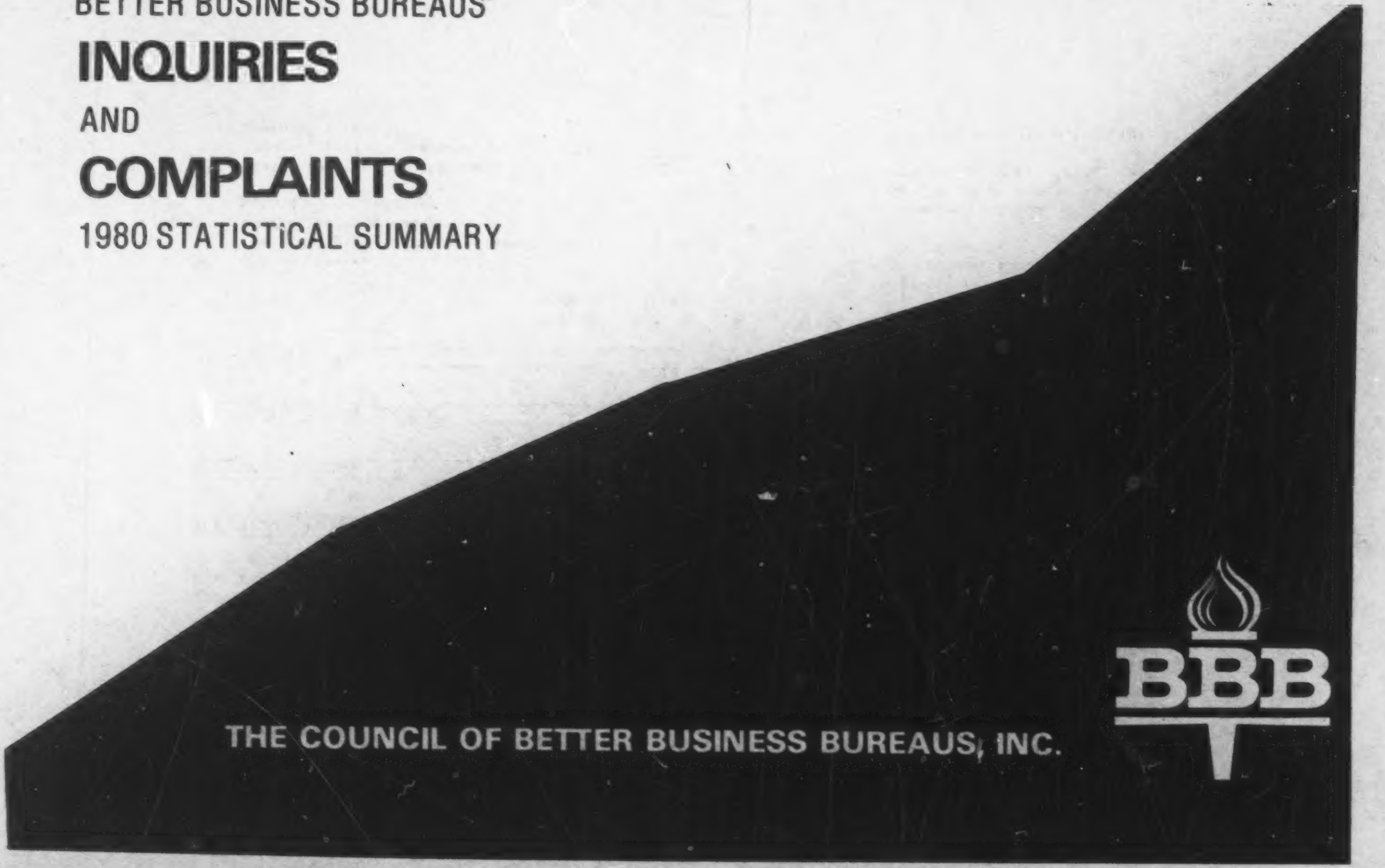
(9) CREDIT/BILLING Percent Total 14.2

		Pct. of Category	Pct. of Total			Pct. of Category	Pct. of Total
90.	Claims concerning the rate of charges (interest rate, finance charge, service charge) or method of calculation	10.7	1.52	92.	Harrassment in collection practices	2.6	.37
91	Claims relating to the down payment, periodic payments, approval of credit	2.7	.39	93.	Incorrect billing, non-receipt of statement, improper or inaccurate crediting	83.8	11.89
				94.	Bill exceeds written or oral estimate	.1	.01

BETTER BUSINESS BUREAUS'

INQUIRIES
AND
COMPLAINTS

1980 STATISTiCAL SUMMARY

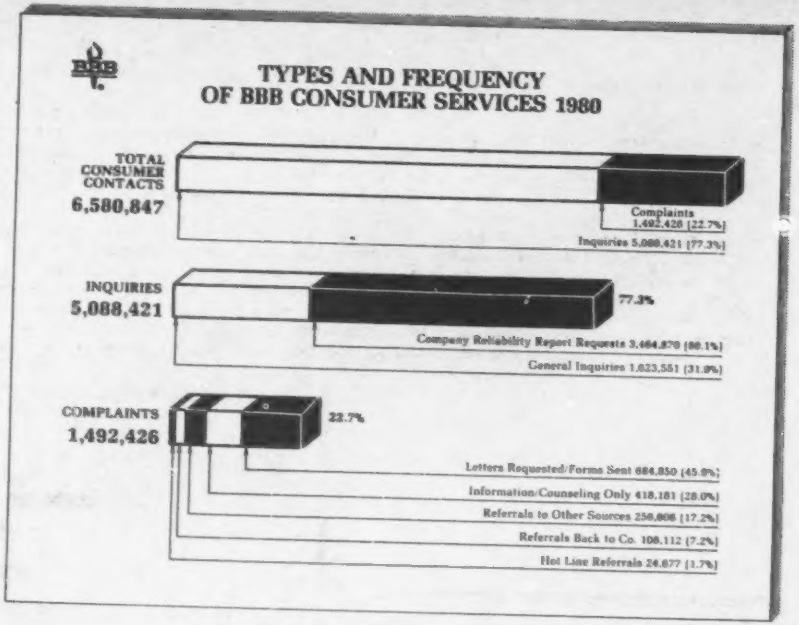


THE COUNCIL OF BETTER BUSINESS BUREAUS, INC.

OVER SIX AND ONE HALF MILLION INQUIRIES AND COMPLAINTS HANDLED IN 1980

The 151 U.S. Better Business Bureau offices handled over 6½ million consumer inquiries and complaints during 1980.

By far, most requests (almost 8 in 10) were pre-purchase inquiries from consumers seeking to "checkout" the reliability of individual companies and various offers before investing.

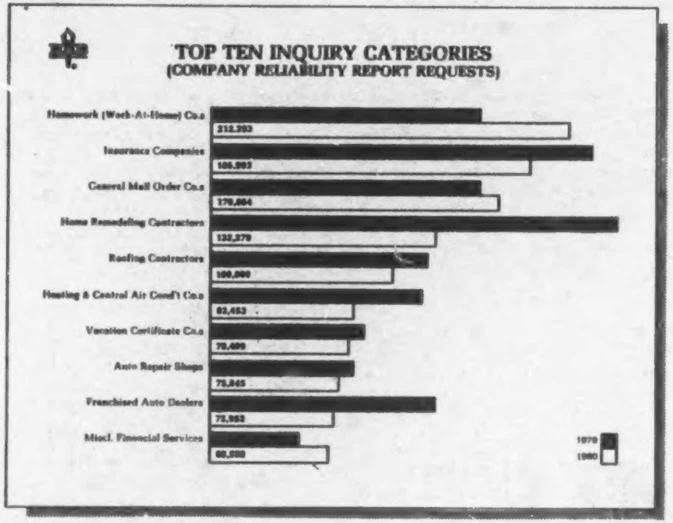


TYPES AND FREQUENCY OF BBB CONSUMER SERVICES 1980

About 23%, or 1½ million requests, were received from consumers with complaints about purchase or service transactions.

Consumers increased their use of the BBB as a counselor and advisor. More than 2 million, or 31% of all contacts were for general guidance or BBB publications--up from 26% in 1979.

However, as a reflection of the overall economic slowdown, total consumer contacts were down about 10% when compared with 1979 totals. The decline occurred in the "company reliability report request" category. With fewer consumer transactions, there were fewer inquiries about individual companies.



WORK-AT-HOME OFFERS TOPPED THE BBB LIST OF TEN MOST ACTIVE INQUIRY CATEGORIES

Requests for reports on companies offering work in the home did not decline, however. WORK-AT-HOME offers topped the BBB list of 10 most active inquiry categories, registering a 32% increase over the 1979 volume. Bureaus advised more than 212,000 inquirers about this wide-spread scheme aimed at consumers wanting to supplement their incomes. Advertisers of these offers usually create false expectations of high earnings and gainful employment for such things as stuffing envelopes at home. CBBB investigation has shown that no actual employment exists; instead, would-be workers must first pay for details purporting to show how to make the claimed income, and then invest additional sums of money in ads, envelopes, postage and sundry other items.

The HOME REMODELING CONTRACTORS category, which topped the inquiry list in 1979, dropped to fourth on the list of top ten with a 45% decrease in volume for 1980. Other home improvement related categories, such as, ROOFING CONTRACTORS, and HEATING & CENTRAL AIR CONDITIONING COMPANIES, while still in the top ten, also showed much lower activity. These decreases are a likely result of reduced consumer spending brought on by high interest rates and inflation.

Meager consumer interest in new car purchases is also seen in a 44% drop in inquiries about FRANCHISED AUTO DEALERS.

ALMOST 1 1/2 MILLION CONSUMERS SOUGHT THE BBB'S HELP WITH THEIR COMPLAINTS IN 1980

While the majority of consumer contacts with the Better Business Bureau were pre-purchase inquiries, the BBB is, nonetheless, the most recognized 1/ and most used 2/ third-party consumer complaint handling mechanism in the United States. Almost 1½ million consumers sought the BBB's help with their complaints in 1980. As illustrated in the chart on page 1, 28% of the complaints were handled through counseling only. Included in this percentage are consumers who came to the BBB for guidance as to their options in pursuing their complaints. Often they sought reassurance that their complaints were justified, or that their settlement terms were reasonable.

Just over 17% of the cases were handled by referral to other sources, such as regulatory agencies, attorneys and courts.

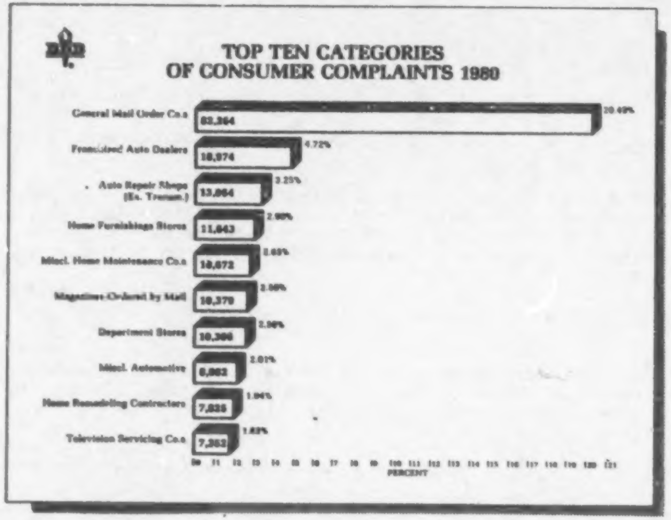
Some consumers came to the BBB for help before taking the issue up with the company involved. As a matter of Better Business Bureau policy, these complainants were asked to make an effort directly with the company's management before filing a complaint through the Bureau. These amounted to 7.2% of the initial complaint contacts.

Another 1.7% were expedited through special "hot line" telephone procedures established by the Bureaus with certain companies.

The remaining 684,850 (45.9%) were asked to provide a written statement for BBB use in contacting the company involved. Of these, 464,811 were received for processing. At year-end, the disposition of these cases was as follows: 401,476 complaints had been presented to the business and closed; 22,680 were found "not within BBB purview"; 18,365 were administratively closed as invalid and 22,290 were pending.

1/ A NATIONAL SURVEY OF THE COMPLAINT HANDLING PROCEDURES USED BY CONSUMERS; OCA/HEW by Market Facts, Inc. - 1976

2/ Roper 1978; National Survey



ECONOMY A KEY FACTOR

LOWER COMPLAINT VOLUME

FOR SOME BUSINESSES

... HIGHER FOR OTHERS

GENERAL MAIL ORDER COMPANIES registered a staggering 20.5% of the total complaints closed in 1980. With a volume in excess of 82,000 complaints, General Mail Order again heads the list of most frequent consumer complaints, exceeding last years record high by more than 4%.

FRANCHISED AUTO DEALERS, while still second on the complaints list, showed a significant 21.2% volume decrease in comparison with 1979. As with inquiries, the marked decrease can be attributed to fewer purchases, which resulted in fewer opportunites for complaints to arise. Likewise, complaints about HOME REMODELING CONTRACTORS dropped 22%, compared with last years total.

Though the ranking of the top ten categories essentially parallels that for 1979, most categories registered lower volumes.

VOLUME DOWN FOR HOUSING RELATED BUSINESS... UP FOR CREDIT COMPANIES

The effects of the economic slowdown can be seen among many of the BBB's 93 different business categories (see Appendix 1), but are most apparent in the categories relating to housing. Complaints involving HOME BUILDERS (Ranked 32nd in volume) plummeted by more than 40%; ROOFING CONTRACTORS (Ranked 16th), down 31%; BUILDING MATERIAL AND SUPPLY CO.S (Ranked 55th), down 29%; SIDING CONTRACTORS (Ranked 49th), down 24%; PAVING CONTRACTORS (Ranked 50th), down 21%; FLOOR COVERING STORES (Ranked 20th), down 16%; and HEATING AND CENTRAL AIR CONDITIONING CO.S (Ranked 21st), down 16%.

While a key factor in holding down complaint volume, economic conditions also promoted a greater opportunity for complaints in some categories.

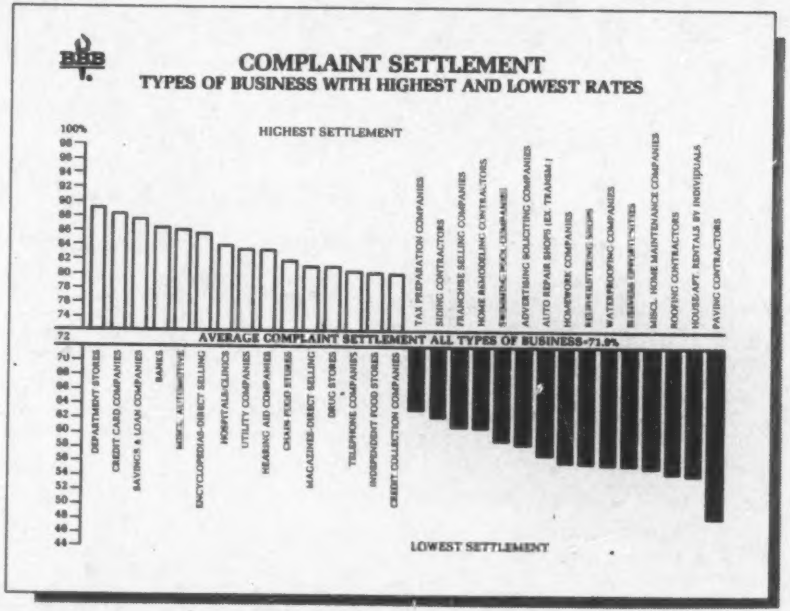
For example, complaints about WORK-AT-HOME schemes (discussed on page 2) jumped 120% over last years' total. *Motivated by ever-shrinking dollars, in an effort to supplement their income,* many consumers fell victim to this scheme.

With more people choosing used cars as an alternative to high priced new ones, more transactions brought additional complaints about USED CAR DEALERS. The category moved from 27th rank to 17th with an increase of 19%.

Higher interest rates, and changes in methods of calculation, brought a 60.5% increase in complaints involving CREDIT CARD COMPANIES. BANKS also increased 13.4% over their 1979 complaint volumes.

An increased number of job seekers boosted complaints about EMPLOYMENT SERVICES by 31%.

Quickly changing air fares, and complicated rate structures, elevated complaints about AIRLINES by 31 percent.



AVERAGE SETTLEMENT RATE
71.9% FOR 1980

As evidenced in the previous analysis, complaint volume within a given type of business is often closely related to the number of purchase or service transactions. The greater the number of transactions, the greater the potential for complaints to arise.

Complaint volume alone is not an adequate basis for evaluating the significance of complaints within an industry. The BBB "settlement index" is, therefore, an important analytical factor because it is a measurement of business' efforts to resolve consumer disputes once they do arise.

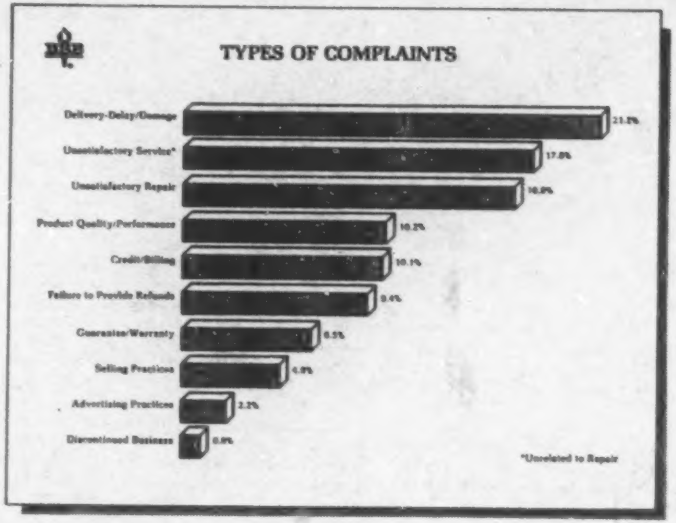
The average settlement rate for all types of business in 1980 was 71.9%, but ranged from a high of 89.3% to a low of 48.3% (see Chart). DEPARTMENT STORES achieved the highest rate and PAVING CONTRACTORS the lowest. The accompanying chart shows the highest and lowest fifteen types of business according to their settlement percentages.

FINANCIAL INSTITUTIONS SCORE HIGH SETTLEMENT... HOME IMPROVEMENT & MAINTENANCE CO.S SCORE LOW

Home Improvement and maintenance related types of business dominated the lowest settlement group. It is also significant to note that, three of the top ten business categories according to complaint volume, are also among those with lowest settlement rates. MISCELLANEOUS HOME MAINTENANCE CO.S (5th in volume) shows a settlement rate of only 55.5%; AUTO REPAIR SHOPS (3rd in volume), 56.3%; and HOME REMODELING CONTRACTORS (9th in volume), 60.6%.

On the high side, there was also some clustering of business types. Financial institutions tended to score high, as represented by CREDIT CARD COMPANIES (88.3%), SAVINGS & LOAN COMPANIES (88.4%), BANKS (86.3%) and CREDIT COLLECTION COMPANIES (80.1%). TELEPHONE and other UTILITY COMPANIES struck high percentages as well, with 83.3 and 80.4 percent respectively. FOOD STORES, both chain (81.8%) and independent (80.2%), registered much above average settlement rates.

See Appendices 1 and 2 for a listing of settlement percentages for all types of business.



DELIVERY PROBLEMS DECLINE WHILE CREDIT/BILLING COMPLAINTS INCREASE

In correlation with the large volume of MAIL ORDER complaints, problems with delivery ranked first among the ten major types of complaints handled by the Better Business Bureaus in 1980.

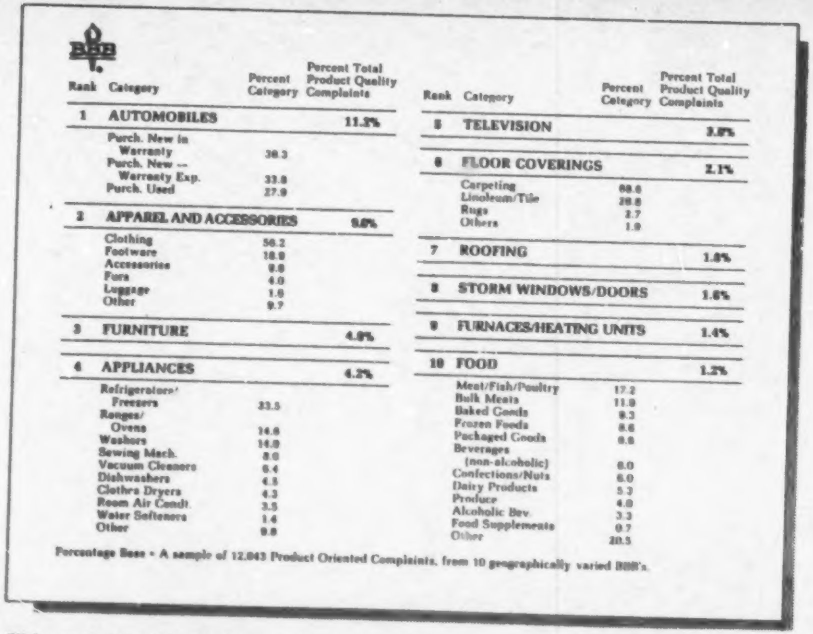
At 21.2%, delivery complaints were down somewhat from the 23.0% level recorded in 1979. The reason is that, while overall mail order complaint volume was up, there were fewer complaints about delayed or non-delivery (58.0% vs 66.1%), but more complaints about mail order companies' billing errors (14.2% vs 9.9%).

Unsatisfactory service, of the type unrelated to repair, was again the second most prevalent complaint type, at 17.8%. These were complaints about the inadequacy of business performance in such matters as installation, craftsmanship, job completion, or failure to generally meet customer expectations.

Repair problems ranked third with 16.9% of the total, followed by complaints concerning product quality and performance at 10.2% (see following analysis of product oriented complaints). Credit and billing related complaints ranked fifth in volume, with a 10.1% share--up from 8.8% in 1979.

A tabulation of complaint types for each of the top-fifteen business categories can be found in Appendix 3.

AUTOMOBILES HIGHEST IN PRODUCT QUALITY COMPLAINTS



Rank	Category	Percent Category	Percent Total Product Quality Complaints
1	**AUTOMOBILES**		11.3%
	Purch. New in Warranty	38.3	
	Purch. New -- Warranty Exp.	33.8	
	Purch. Used	27.9	
2	**APPAREL AND ACCESSORIES**		9.0%
	Clothing	56.2	
	Footware	18.8	
	Accessories	9.8	
	Furs	4.0	
	Luggage	1.6	
	Other	9.7	
3	**FURNITURE**		4.8%
4	**APPLIANCES**		4.2%
	Refrigerators/ Freezers	23.5	
	Ranges/ Ovens	14.6	
	Washers	14.0	
	Sewing Mach.	8.0	
	Vacuum Cleaners	6.4	
	Dishwashers	4.5	
	Clothes Dryers	4.3	
	Room Air Condt.	3.5	
	Water Softeners	1.4	
	Other	9.8	
5	**TELEVISION**		3.8%
6	**FLOOR COVERINGS**		2.1%
	Carpeting	66.6	
	Linoleum/Tile	28.8	
	Rugs	2.7	
	Others	1.9	
7	**ROOFING**		1.8%
8	**STORM WINDOWS/DOORS**		1.6%
9	**FURNACES/HEATING UNITS**		1.4%
10	**FOOD**		1.2%
	Meat/Fish/Poultry	17.2	
	Bulk Meats	11.9	
	Baked Goods	9.3	
	Frozen Foods	8.6	
	Packaged Goods	6.6	
	Beverages (non-alcoholic)	8.0	
	Confections/Nuts	6.0	
	Dairy Products	5.3	
	Produce	4.0	
	Alcoholic Bev.	3.3	
	Food Supplements	0.7	
	Other	20.5	

Percentage Base - A sample of 12,043 Product Oriented Complaints, from 10 geographically varied BBB's.

This analysis differentiates between the "types of business" and the "products" most often involved in complaints to the Better Business Bureaus. For example, Mail Order Companies (selling a great variety of products) ranked first in overall complaint volume among types of business. Among complaints specifically involving product quality or performance, however, AUTOMOBILES ranked first in the top ten. As revealed in the chart above, products related to the "basics", food, clothing, shelter, and transportation, dominated the list.

APPAREL & ACCESSORIES ranked second, with clothing accounting for most of the volume. FURNITURE ranked third, followed by APPLIANCES (4th) and TELEVISIONS (5th).

SOURCE OF DATA

The estimates for total requests for service, types of service and number of inquiries and complaints for the entire Better Business Bureau system were based on monthly reports from 110 local Bureau offices (Monthly Activity Reporting System). The projections for types of complaints and product lines were derived from 14 geographically varied Bureaus (Inquiry/Complaint Information System).

The estimates are projected totals representative of the entire United States Bureau system's activity for 1980. The system is made up of 151 local Better Business Bureau offices (including Puerto Rico and Hawaii).

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APPENDIX 1

CLOSED COMPLAINTS
BY TYPE OF BUSINESS (RANKED LIST)

TYPE OF BUSINESS	1980 RANK	1980 TOTAL	1980 PERCENT OF TOTAL	1980 PERCENT SETTLED	1979 RANK	1979 TOTAL	1979 PERCENT OF TOTAL	1979 PERCENT SETTLED
TOTAL		401,476	100.0%	71.9%		412,745	100.0%	73.0%
Mail Order Companies	1	82,264	20.49%	79.5%	1	78,990	19.13%	75.5%
Franchised Auto Dealers	2	18,974	4.72	79.9	2	24,067	5.83	81.1
Auto Repair--Fix Transmission	3	13,054	3.25	56.8	3	13,570	3.28	67.5
Home Furnishing Stores	4	11,643	2.90	70.3	4	12,313	2.98	73.8
Misc. Home Maintenance Co.'s	5	10,672	2.65	55.5	5	11,671	2.82	58.3
Magazines, Ordered by Mail	6	10,379	2.58	77.4	6	10,642	2.58	81.8
Department Stores	7	10,306	2.56	89.3	7	10,590	2.56	89.2
Misc. Automotive	8	8,082	2.01	65.9	9	8,041	1.94	68.7
Home Remodeling Contractors	9	7,825	1.94	60.6	8	10,029	2.42	65.6
Television Servicing Co.'s	10	7,352	1.83	70.3	10	7,295	1.76	70.2
Insurance Companies	11	7,156	1.78	83.8	11	7,261	1.75	86.3
Dry Cleaning/Laundry Co.'s	12	6,737	1.67	67.0	12	7,183	1.74	71.1
Appliance Service Co.'s	13	6,064	1.51	66.2	15	5,849	1.41	68.7
Apparel & Accessory Shops	14	5,505	1.37	73.3	14	6,159	1.49	77.7
Appliance Stores	15	5,061	1.26	74.2	16	5,000	1.21	74.5
Roofing Contractors	16	4,557	1.13	54.2	13	6,637	1.60	58.7
Auto Dealers - Used only	17	4,519	1.12	74.5	27	3,793	.91	64.7
Real Estate Sales/Rental Services	18	4,339	1.08	63.9	23	4,474	1.08	69.0
Misc. Health & Personal Services	19	4,175	1.03	75.0	29	3,718	.90	76.0
Floor Covering Stores	20	4,142	1.03	66.7	17	4,940	1.19	69.4

.......2 (continued Closed Complaints
by TOB, Ranked List)

TYPE OF BUSINESS	1980 RANK	1980 TOTAL	1980 PERCENT OF TOTAL	1980 PERCENT SETTLED	1979 RANK	1979 TOTAL	1979 PERCENT OF TOTAL	1979 PERCENT SETTLED
Heating & Central Air Cond't Co.s	21	4,111	1.02	70.4	19	4,903	1.18	71.8
Auto Tire, Battery, Acces. Shops	22	3,965	.98	72.3	22	4,693	1.13	73.9
Jewelry Stores	23	3,914	.97	76.2	26	3,890	.94	78.1
TV & Radio/Phono/Shops	24	3,825	.95	71.2	21	4,717	1.14	74.4
House/Apt. Rental - By Indiv.	25	3,722	.92	54.1	30	3,688	.89	67.5
Gasoline Service Stations	26	3,587	.89	67.6	18	4,909	1.18	63.7
Direct Selling - Misc.	27	3,498	.87	72.0	34	3,068	.74	74.6
Direct Selling - Magazines	28	3,452	.85	81.0	28	3,773	.91	81.4
Moving/Storage Companies	29	3,321	.82	69.5	25	3,911	.94	69.7
Plumbing Contractors	30	3,121	.77	66.5	33	3,069	.74	66.0
Mobil/Modular Home Dealers	31	3,015	.75	68.3	24	4,060	.98	72.6
Home Builders - New Construction	32	2,919	.72	66.8	20	4,876	1.18	69.1
Homework Companies	33	2,757	.68	56.2	61	1,255	.30	49.3
Swimming Pool Companies	34	2,742	.68	59.0	31	3,262	.79	68.2
Auto Transmission Shops	35	2,506	.62	69.7	35	2,990	.72	73.5
Exterminating Service Co.'s	36	2,504	.62	76.0	36	2,926	.70	74.3
Travel Agencies	37	2,500	.62	68.9	39	2,408	.58	74.5
Photpg. Studios	38	2,470	.61	65.1	43	2,043	.49	67.6
Photographic Processing Co.'s	39	2,437	.60	69.9	32	3,253	.78	73.2
Gardening/Nursery Prod.	40	2,388	.59	66.3	37	2,774	.67	75.2
Credit Card Companies	41	2,329	.58	88.3	56	1,451	.35	85.7
Banks	42	2,238	.55	86.3	45	1,974	.47	87.4
Misc. Financial	43	2,256	.56	71.8	55	1,460	.35	74.2
Carpet & Upholst. Clean Co.'s	44	2,202	.54	67.2	42	2,073	.50	61.5
Direct Selling - Photography	45	1,987	.49	67.3	49	1,726	.41	68.9

.... 3 (continued Closed Complaints
by TOB, Ranked List)

	1980				1979			
TYPE OF BUSINESS	RANK	TOTAL	PERCENT OF TOTAL	PERCENT SETTLED	RANK	TOTAL	PERCENT OF TOTAL	PERCENT SETTLED
Credit Collection Co.'s	46	1,965	.48	80.1	47	1,829	.44	81.5
Advertising Soliciting Co.'s	47	1,962	.48	58.5	44	1,980	.47	66.0
Health Studios	48	1,931	.48	69.8	50	1,675	.40	68.0
Siding Contractors	49	1,889	.47	62.7	38	2,480	.60	68.1
Paving Contractors	50	1,856	.46	48.3	40	2,338	.56	54.0
Vacation Certificate Co.'s	51	1,853	.46	66.9	62	1,174	.28	63.0
Consumer Finance & Loan Co.'s	52	1,831	.45	80.9	46	1,871	.45	83.8
Waterproofing Companies	53	1,600	.39	56.0	49	1,726	.41	57.7
Recreational Vehicle Dealers	54	1,514	.37	68.4	48	1,800	.43	64.0
Building Material/Supply Co.'s	55	1,505	.37	76.9	41	2,114	.51	77.9
Utility Companies	56	1,500	.37	83.3	51	1,627	.39	84.4
Reupholstering Shops	57	1,472	.36	56.1	54	1,492	.36	57.8
Employment Services	58	1,467	.36	69.2	63	1,117	.27	69.7
Airlines	59	1,454	.36	80.9	64	1,112	.26	80.8
Buying Clubs/Grp. Purch. Orgs.	60	1,419	.35	66.7	52	1,598	.38	72.0
Music/Record Stores	61	1,268	.31	76.0	53	1,506	.36	79.2
Trade Vocational Schools	62	1,199	.29	77.5	59	1,320	.31	78.3
Hospitals/Clinics	63	1,079	.26	83.8	58	1,322	.32	82.5
Electrical Contractors	64	1,017	.25	68.0	66	972	.23	56.9
Misc. Food Companies	65	1,012	.25	66.2	65	1,070	.25	73.9
Alarm Systems Dealers	66	919	.22	69.3	60	1,262	.30	74.1
Telephone Companies	67	894	.22	80.4	69	900	.21	86.8
Hair Product/Improvement Co.'s	68	855	.21	64.9	71	748	.18	71.7
Chain Food Stores	69	788	.19	81.8	70	779	.18	86.1
Land Development Co.'s	70	741	.18	71.5	68	930	.22	69.4

.... 4 (continued Closed Complaints
by TOB, Ranked List)

	1980				1979			
TYPE OF BUSINESS	RANK	TOTAL	PERCENT OF TOTAL	PERCENT SETTLED	RANK	TOTAL	PERCENT OF TOTAL	PERCENT SETTLED
Business Opportunities	71	713	.17	55.9	67	950	.23	53.6
Doctors	72	712	.17	77.2	72	695	.16	76.0
Dentists	73	586	.14	67.7	77	581	.14	60.8
Drug Stores	74	584	.14	81.0	73	646	.15	83.1
Funeral Related Service Co.'s	75	553	.13	64.1	79	462	.11	61.0
Freezer Food Plan Companies	76	513	.12	68.1	74	612	.14	76.8
Independent Food Stores	77	479	.11	80.2	82	323	.07	76.2
Direct Selling - Encyclopedias	78	448	.11	85.4	76	583	.14	83.9
Savings & Loan Companies	79	389	.09	87.4	81	338	.08	84.0
Hearing Aid Companies	80	371	.09	83.3	80	382	.09	84.8
Bulk Meat Companies	81	349	.08	66.7	78	467	.11	66.7
Tax Preparation Companies	82	322	.08	63.3	83	317	.07	62.8
Charity Soliciting Organizations	83	291	.07	66.3	84	276	.06	67.4
Market Research Companies	84	280	.06	86.4	86	133	.03	48.0
Security Brokers/Dealers	85	269	.06	68.9	87	107	.02	76.6
Franchise Selling Companies	86	227	.05	60.8	75	588	.14	57.0
Legal Services	87	200	.04	65.5	85	156	.03	58.3
Multi-Level Selling Companies	88	155	.03	69.4	88	102	.02	63.7
Misc. Service Establishments	*	23,365	5.81	66.9	*	21,262	5.15	69.1
Misc. Retail Stores/Shops	*	14,988	3.73	68.8	*	12,967	3.14	70.5
Manufactures/Producers	*	7,783	1.93	75.5	*	6,203	1.50	80.2
Wholesalers/Distributors	*	1,585	.39	67.4	*	1,434	.34	72.5
Not Elsewhere Classified	*	4,752	1.18	65.5	*	5,045	1.22	77.0

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*Unranked because Category includes a wide variety of business types

APPENDIX 2
CLOSED COMPLAINTS BY TYPE OF BUSINESS
CATEGORICAL LIST

		1980				1979			
CODE	TYPE OF BUSINESS	RANK	NUMBER	PERCENT OF TOTAL	PERCENT SETTLED	RANK	NUMBER	PERCENT OF TOTAL	PERCENT SETTLED
	TOTAL		401,476	100.0%	71.9%		412,745	100.0%	73.0%
	AUTOMOTIVE								
000	Franchised Auto Dealers	2	18,974	4.72%	79.9%	2	24,067	5.83%	81.1
003	Auto Dealers-Used Only	17	4,519	1.12	74.5	27	3,793	.91	64.7
005	Gasoline Stations	26	3,587	.89	67.6	18	4,909	1.18	63.7
010	Auto Repair Shp.-Ex. Transm.	3	13,054	3.25	56.8	3	13,570	3.28	67.5
015	Tire, Battery, Acces. Shops	22	3,965	.98	72.3	22	4,693	1.13	73.9
020	Transmission Shops	35	2,506	.62	69.7	35	2,990	.72	73.5
090	Other Automotive	8	8,082	2.01	65.9	9	8,041	1.94	68.7
			54,687	13.59%			62,063	14.9[illegible]%	
	FINANCIAL								
100	Banks	42	2,238	.55	86.3	45	1,974	.47	87.4
105	Business Opportunity Co.s	71	713	.17	55.9	67	950	.23	53.6
110	Consumer Finance & Loan Co.s	52	1,831	.45	80.9	46	1,871	.45	83.8
115	Credit Card Co.s	41	2,329	.58	88.3	56	1,451	.35	85.7
120	Credit Collection Co.s	46	1,965	.48	80.1	47	1,829	.44	81.5
125	Franchise Selling Co.s	86	227	.05	60.8	75	588	.14	57.0
128	House/Apt. Rentals by Indiv.	25	3,722	.92	54.1	30	3,688	.89	67.5
130	Insurance Companies	11	7,156	1.78	83.8	11	7,261	1.75	86.3
135	Land Dev. Companies	70	741	.18	71.5	68	930	.22	69.4
140	Multi-Level Selling Co.s	88	155	.03	69.4	88	102	.02	63.7
145	Real Estate Sls./Rntl Co.s	18	4,339	1.08	63.9	23	4,474	1.08	69.0
150	Savings & Loan Co.s	79	389	.09	87.4	81	338	.08	84.0
155	Security Brokers/Dealers	85	269	.06	68.9	87	107	.02	76.6
190	Misc. Financial	43	2,256	.56	67.2	55	1,460	.35	74.2
			28,330	6.98			27,023	6.49	

.... 2 (continued Closed Complaints
by TOB, Categorical List)

		1980				1979			
CODE	TYPE OF BUSINESS	RANK	NUMBER	PERCENT OF TOTAL	PERCENT SETTLED	RANK	NUMBER	PERCENT OF TOTAL	PERCENT SETTLED
	FOOD								
200	Bulk Meat Co.s	81	349	.08	66.7	78	467	.11	66.7
205	Chain Food Stores	69	788	.19	81.8	70	779	.18	86.1
210	Independent Food Stores	77	479	.11	80.2	82	323	.07	76.2
215	Freezer Food Plan Co.s	76	513	.12	68.1	74	612	.14	76.8
290	Misc. Food Cos.	65	1,012	.25	66.2	65	1,070	.25	73.9
			3,141	.75			3,251	.75	
	HEALTH & PERSONAL IMPROVEMENT								
300	Dentist	73	586	.14	67.7	77	583	.14	83.9
305	Doctors	72	712	.17	77.2	72	695	.16	76.0
310	Drug Stores	74	584	.14	81.0	73	646	.15	83.1
315	Hair Product/Improvement	68	855	.21	64.9	71	748	.18	71.7
320	Health Studios	48	1,931	.48	69.8	50	1,675	.40	68.0
325	Hearing Aid Co.s	80	371	.09	83.3	80	382	.09	84.8
330	Hospitals/Clinics	63	1,079	.26	83.8	58	1,322	.32	82.5
390	Misc. Health & Personal Improv.	19	4,175	1.03	75.0	29	3,718	.90	76.0
			10,293	2.52			9.769	2.34	
	HOME REMODELING, CONST. & MAINT.								
400	Alarm Systems Dealers	66	919	.22	69.3	60	1,262	.30	74.1
405	Building Material Supply Co.s	55	1,505	.37	76.9	41	2,114	.51	77.9
410	Exterminating Service Co.s	36	2,504	.62	76.0	36	2,926	.70	74.3
413	Electrical Contractors	64	1,017	.25	68.0	66	972	.23	56.9
415	Heating & Central Air Cond't Co.s	21	4,111	1.02	70.4	19	4,903	1.18	71.8
420	Home Builders - New Const.	32	2,919	.72	66.8	20	4,876	1.18	69.1
425	Home Remodeling Contractors	9	7,825	1.94	60.6	8	10,029	2.42	65.6

.......3 (continued Closed Complaints
by TOB, Categorical List)

CODE	TYPE OF BUSINESS	1980 RANK	1980 NUMBER	1980 PERCENT OF TOTAL	1980 PERCENT SETTLED	1979 RANK	1979 NUMBER	1979 PERCENT OF TOTAL	1979 PERCENT SETTLED
430	Mobile/Modular Home Dealers	31	3,015	.75	68.3	24	4,060	.98	72.6
435	Paving Contractors	50	1,856	.46	48.3	40	2,338	.56	54.0
438	Plumbing Contractors	30	3,121	.77	66.5	33	3,069	.74	66.0
440	Roofing Contractors	16	4,557	1.13	54.2	13	6,637	1.60	58.7
445	Siding Contractors	49	1,889	.47	62.7	38	2,480	.60	68.1
450	Swimming Pool Co.s	34	2,742	.68	59.0	31	3,262	.79	68.2
455	Waterproofing Co.s	53	1,600	.39	56.0	49	1,726	.41	57.7
490	Misc. Home Maintenance Co.s	5	10,672	2.65	55.5	5	11,671	2.82	58.3
			50,252	12.44			62,325	15.02	
	RETAIL								
500	Apparel & Accessory Shops	14	5,505	1.37	73.3	14	6,159	1.49	77.7
505	Appliance Stores	15	5,061	1.26	74.2	16	5,000	1.21	74.5
508	Buying Clubs/Group Purch. Org.	60	1,419	.35	66.7	52	1,598	.38	72.0
510	Department Stores	7	10,306	2.56	89.3	7	10,590	2.56	89.2
515	Direct Selling Co.s-Encycl.	78	448	.11	85.4	76	583	.14	83.9
520	Direct Selling Co.s-Magazines	28	3,452	.85	81.0	28	3,773	.91	81.4
525	Direct Selling-Photographers	45	1,987	.49	67.3	49	1,726	.41	68.9
530	Direct Selling-Misc.	27	3,498	.87	72.0	34	3,068	.74	74.6
535	Floor Covering Stores	20	4,142	1.03	66.7	17	4,940	1.19	69.4
540	Gardening/Nursey Products	40	2,388	.59	66.3	37	2,774	.67	75.2
545	Home Furnishing Stores	4	11,643	2.90	70.3	4	12,313	2.98	73.8
550	Jewelry Stores	23	3,914	.97	76.2	26	3,890	.94	78.1
553	Magazines, Ordered by Mail	6	10,379	2.58	77.4	6	10,642	2.57	81.8
555	Mail Order Companies	1	82,264	20.49	79.5	1	78,990	19.13	75.5
560	Music/Record Shops	61	1,268	.31	76.0	53	1,506	.36	79.2
565	Photographic Processing	39	2,437	.60	69.9	32	3,253	.78	73.2
568	Photo. Studios-Ex. Direct Selling	38	2,470	.61	65.1	43	2,043	.49	67.6
570	Recreational Vehicle Dealers	54	1,514	.37	68.4	48	1,800	.43	64.0
575	Reupholstering Shops	57	1,472	.36	56.1	54	1,492	.36	57.8

.......4 (continued Closed Complaints
by TOB, Categorical List)

		1980				1979			
CODE	TYPE OF BUSINESS	RANK	NUMBER	PERCENT OF TOTAL	PERCENT SETTLED	RANK	NUMBER	PERCENT OF TOTAL	PERCENT SETTLED
580	TV/Radio/Phono Shops	24	3,825	.95	71.2	21	4,717	1.14	74.4
590	Misc. Retail Stores	*	14,988	3.73	68.8	*	12,967	3.14	70.5
			174,380	43.35			173,824	42.02	
	SERVICES								
600	Advertising Soliciting Orgs.	47	1,962	.48	58.5	44	1,980	.47	66.0
605	Airlines	59	1,454	.36	80.9	64	1,112	.26	80.8
610	Appliance Service Co.s	13	6,064	1.51	66.2	15	5,849	1.41	68.7
613	Carpet & Upholstering Cleaning Co.	44	2,202	.54	67.2	42	2,073	.50	61.5
615	Charity Soliciting Orgs.	83	291	.07	66.3	84	276	.06	67.4
620	Dry Cleaning Laundry Co.s	12	6,737	1.67	67.0	12	7,183	1.74	71.1
625	Employment Services	58	1,467	.36	69.2	63	1,117	.27	69.7
630	Funeral Related Serv. Co.s	75	553	.13	64.1	79	462	.11	61.0
635	Homework (Work-at-Home) Co.s	33	2,757	.68	56.2	61	1,255	.30	49.3
640	Legal Services	87	200	.04	65.5	85	156	.03	58.3
645	Market Research Co.s	84	280	.06	86.4	86	133	.03	48.0
650	Moving/Storage Co.s	29	3,321	.82	69.5	25	3,911	.94	69.7
655	Television Servicing Co.s	10	7,352	1.83	70.3	10	7,295	1.76	70.2
660	Tax Preparation Co.s	82	322	.08	63.3	83	317	.07	62.8
665	Telephone Co.s	67	894	.22	80.4	69	900	.21	86.8
670	Trade/Vocational Schools	62	1,199	.29	77.5	59	1,320	.31	78.3
675	Travel Agencies	37	2,500	.62	68.9	39	2,408	.58	74.5
680	Utility Companies	56	1,500	.37	83.3	51	1,627	.39	84.4
685	Vacation Certificate Co.s	51	1,853	.46	66.9	62	1,174	.28	63.0
690	Misc. Service Establishments	*	23,365	5.81	66.9	*	21,262	5.15	69.1
			66,273	16.40			61,810	14.87	
700	MANUFACTURES/PRODUCERS	*	7,783	1.93	75.5	*	6,203	1.50	80.2
800	WHOLESALERS/DISTRIBUTORS	*	1,585	.39	67.4	*	1,434	.34	72.5
999	NOT ELSEWHERE CLASSIFIED	*	4,752	1.18	65.5	*	5,045	1.22	77.0

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*Unranked because category includes a wide variety of businesses.

APPENDIX 3
TOP 15 BUSINESS CATEGORIES BY TYPES OF COMPLAINTS

(#1) MAIL ORDER COMPANIES

Pct.	Type of Complaint
58.0%	Delivery - Delay/Damage
14.2	Credit/Billing
13.9	Failure to provide Refunds
8.6	Unsatisfactory Service *
1.7	Selling Practices
1.4	Product Quality/Performance
.8	Advertising Practices
.5	Guarantee/Warranty
.5	Unsatisfactory Repair
.4	Discontinued Business

(#2) FRANCHISED AUTO DEALERS

Ptc.	Type of Complaint
43.0%	Unsatisfactory Repair
16.4	Product Quality/Performance
10.0	Selling Practices
7.5	Guarantee/Warranty
7.4	Unsatisfactory Service*
5.7	Credit/Billing
5.0	Failure to provide Refund
2.7	Delivery - Delay/Damage
2.1	Advertising Practices
.2	Discontinued Business

(#3) AUTO REPAIR SHOPS
(Ex. Transm.)

Pct.	Type of Complaint
69.6%	Unsatisfactory Repair
6.8	Unsatisfactory Service*
6.5	Product Quality/Performance
6.4	Credit/Billing
4.0	Guarantee/Warranty
2.4	Selling Practices
2.1	Failure to provide Refunds
1.2	Delivery - Delay/Damage
.8	Advertising Practices
.2	Discontinued Business

(#4) HOME FURNISHING STORES

Pct.	Type of Complaint
29.6%	Product Quality/Performance
23.6	Delivery - Delay/Damage
12.1	Unsatisfactory Repair
9.9	Unsatisfactory Service*
8.2	Failure to provide Refunds
5.0	Guarantee/Warranty
4.8	Credit/Billing
3.6	Selling Practices
2.3	Advertising Practices
.9	Discontinued Business

(#5) MISCL. HOME MAINTENANCE CO.s

Pct.	Type of Complaint
26.6%	Unsatisfactory Service*
23.9	Unsatisfactory Repair
17.1	Product Quality/Performance
15.0	Guarantee/Warranty
5.6	Delivery - Delay/Damage
4.1	Failure to provide Refunds
3.1	Credit/Billing
2.0	Discontinued Business
1.9	Selling Practices
.7	Advertising Practices

(#6) MAGAZINES, ORDER BY MAIL

Pct.	Type of Complaint
58.0%	Delivery - Delay/Damage
17.7	Credit/Billing
9.7	Unsatisfactory Service*
9.4	Selling Practices
3.3	Failure to provide Refunds
.8	Discontinued Business
.6	Guarantee/Warranty
.4	Product Quality Performance
.1	Advertising Practices
-----	Repair

---

*Unrelated to Repair

.......2 (continued Top 15 Business Categories by Types of Complaints)

(#7) DEPARTMENT STORES

Pct.	Type of Complaint
21.0%	Credit/Billing
14.3	Product Quality/Performance
16.1	Unsatisfactory Repair
14.0	Unsatisfactory Service *
14.0	Advertising Practices
9.8	Delivery - Delay/Damage
4.0	Guarantee/Warranty
3.5	Selling Practices
3.2	Failure to provide Refunds
.1	Discontinued Business

(#8) MISCL. AUTOMOTIVE

Pct.	Type of Complaint
29.5	Unsatisfactory Repair
18.0	Product Quality/Performance
17.1	Unsatisfactory Service *
10.7	Guarantee/Warranty
8.2	Failure to provide Refunds
7.8	Credit/Billing
4.6	Selling Practices
3.3	Delivery - Delay/Damage
.7	Advertising Practices
.1	Discontinued Business

(#9) HOME REMODELING CONTRACTORS

Pct.	Type of Complaint
32.7	Unsatisfactory Repair
20.5	Unsatisfactory Service *
19.3	Guarantee/Warranty
14.9	Product Quality/Performance
5.0	Delivery - Delay/Damage
2.1	Failure to provide Refunds
2.0	Credit/Billing
1.6	Discontinued Business
1.5	Selling Practices
.4	Advertising Practices

(#10) TELEVISION SERVICE CO.s

Pct.	Type of Complaint
73.7	Unsatisfactory Repair
7.8	Unsatisfactory Service*
5.6	Credit/Billing
4.6	Guarantee/Warranty
2.6	Product Quality/Performance
2.3	Failure to provide Refunds
1.8	Delivery - Delay/Damage
1.1	Selling Practices
.3	Advertising Practices
.2	Discontinued Business

(#11) INSURANCE COMPANIES

Pct.	Type of Complaint
50.0	Unsatisfactory Service *
20.1	Failure to provide Refunds
12.6	Credit/Billing
6.0	Guarantee/Warranty
3.7	Selling Practices
3.2	Unsatisfactory Repair
2.1	Delivery - Delay/Damage
1.8	Advertising Practices
.5	Discontinued Business
---	Product Quality/Performance

(#12) DRY CLEANING/LAUNDRY CO.s

Pct.	Type of Complaint
59.6	Unsatisfactory Service *
16.6	Unsatisfactory Repair
13.4	Delivery - Delay/Damage
5.3	Product Quality/Performance
2.0	Failure to provide Refunds
1.0	Credit/Billing
.9	Selling Practices
.6	Advertising Practices
.3	Guarantee/Warranty
.3	Discontinued Business

* Unrelated to repair

.......3 (continued Top 15 Business
Categories by Types of Complaints)

(#13) APPLIANCE SERVICE Co.'s

Pct.	Type of Complaint
63.0%	Unsatisfactory Repair
8.0	Unsatisfactory Service *
6.4	Guarantee/Warranty
6.3	Product Quality/Performance
5.9	Credit/Billing
4.6	Failure to provide Refunds
3.0	Delivery - Delay/Damage
2.0	Selling Practices
.4	Advertising Practices
.4	Discontinued Business

(#14) APPAREL & ACCESSORY SHOPS

Pct.	Type of Complaint
29.7%	Product Quality/Performance
23.7	Unsatisfactory Service *
11.8	Delivery - Delay/Damage
9.4	Failure to provide Refunds
9.2	Credit/Billing
5.1	Selling Practices
4.5	Advertising Practices
3.8	Unsatisfactory Repair
1.9	Guarantee/Warranty
.9	Discontinued Business

(#15) APPLIANCE STORES

Pct.	Type of Complaint
30.0%	Unsatisfactory Repair
21.6	Product Quality/Performance
10.8	Unsatisfactory Service*
9.4	Guarantee/Warranty
7.9	Delivery - Delay/Damage
6.4	Failure to provide Refunds
5.3	Selling Practices
4.3	Advertising Practices
4.2	Credit/Billing
.1	Discontinued Business

* Unrelated to repair

APPENDIX 4
CATEGORICAL DEFINITIONS FOR CLOSED COMPLAINTS & METHODOLOGY FOR "SETTLEMENT INDEX"

Complaints which a Bureau brings to the attention of a business (either orally or in writing) for the purpose of eliciting its response ,are, when concluded, categorized under a general heading of PRESENTED COMPLAINTS.

Complaints are categorized according to the Type of Business involved and under the major categories of RESPONSE, NO RESPONSE and UNPURSUABLE.

Complaints which receive a business response are further categorized according to the customer's satisfaction with that response.

Following are specific definitions of the resolution categories for presented complaints:

RESPONSE - The business replys to the presentation of the complaint either by contacting the Bureau, Bureau and customer, or customer only.

Satisfied (positive) - Based on complainant's direct statement of satisfaction. The complainant must return the BBB verification form marked "Basically Satisfied" or call the Bureau with equivalent information.

Satisfied (assumed) - Based on complainant's failure to return the BBB verification form or otherwise notify the Bureau of the complainant's status within a designated number of days from its receipt.

** Note: Satisfaction can only be assumed when the company has responded to the Bureau and the customer fails to reply to the Bureau's efforts to verify. Satisfaction cannot be assumed if both the company and the customer fail to answer. Such cases must remain under the "No Response" category until the Bureau is positively notified to the contrary.

CONTINUED... CATEGORICAL DEFINITIONS FOR CLOSED COMPLAINTS & METHODOLOGY FOR "SETTLEMENT INDEX"

Dissatisfied - Based on the complainant's direct statement of dissatisfaction. The complainant must return the BBB verification form marked "Basically Dissatisfied" or call the Bureau with equivalent information.

Dissatisfied (AJR) - Based on the BBB judgement that, while the customer has directly stated he/she is "Basically Dissatisfied" , the company did all that it reasonably had a responsibility to do in handling the complaint. The company response is therefore "Administratively Judged Responsible" (AJR).

**Note - The AJR designation should only be used when there is clear and compelling evidence that the customer has been unreasonable in his/her expectations or when the facts show the complaint to be without validity.

NO RESPONSE - No reply by the business to the Bureau or customer.

UNPURSUABLE - Cases which are presented, but result only in knowledge that the company is out-of-business, cannot be located or is bankrupt without consumer recourse available.

The "Settlement Index" is calculated by adding (Satisfied-Positive) + (Satisfied Assumed) + (Dissatisfied, but Administratively Judged Responsible) and dividing by the total Presented Complaints.

****

Mr. Rutherford. On behalf of Senator Pryor, I do want to thank all the panelists for participating today and for your enlightening and very informative testimony.

We appreciate Knox and Louis and the subcommittee staff being down here. And, Knox, I think you did an exceptional job in conducting this hearing under, I think, somewhat difficult circumstances.

We appreciate your understanding that Senator Pryor could not be here and had to return to Washington because of his son's illness.

Information from this hearing will be submitted to the Senate Governmental Affairs Committee for review and study; and again we thank you very much for participating and for your interest.

With that, we stand adjourned.

[Thereupon, at 11:20 a.m., the above-entitled proceedings were concluded.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

97TH CONGRESS
1ST SESSION

S. 1407

To amend title 39, United States Code, by strengthening the investigatory and enforcement powers of the Postal Service by authorizing inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22 (legislative day, JUNE 1), 1981

Mr. PRYOR (for himself, Mr. HEINZ, and Mr. CHILES) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

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A BILL

To amend title 39, United States Code, by strengthening the investigatory and enforcement powers of the Postal Service by authorizing inspection authority and by providing for civil penalties for violations of orders under section 3005 of such title (pertaining to schemes for obtaining money by false representations or lotteries), and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postal Service Amendments of 1981".

SUBPENA AUTHORITY

SEC. 2. (a) Chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 413. Inspection authority

"(a) The Postal Service may require, pursuant to a written demand made under this section, that any officer or employee designated by the Postal Service be given access at reasonable times to inspect or copy any books, records, documents, or other objects that the Postal Service has reason to believe relate to any matter under investigation by the Postal Service pursuant to its authority under section 404(a)(7) of this title. Any written demand under this section shall describe with reasonable particularity the items sought to be examined, and shall specify a reasonable time and place for making the inspection. No written demand issued under this section may impose an unreasonable burden upon the party to whom the demand is issued.

"(b) If a person issued a written demand under subsection (a) refuses to obey such demand, any district court of the United States within the judicial district within which such person is found, resides, receives mail, or otherwise transacts business, may (upon application by the Postal Service) order such person to comply with the written demand issued under subsection (a). Any failure to obey such order of the court may be punished by the court as a contempt thereof.".

(b) The table of sections of chapter 4 of title 39, United States Code, is amended by inserting after the item relating to section 412 the following new item:

"413. Inspection authority.".

AMENDMENT TO SECTION 3005

SEC. 3. Section 3005 of title 39, United States Code, is amended to read as follows:

"§ 3005. False representations; lotteries

"(a)(1) The Postal Service may issue an order described under paragraph (1) or (2) of subsection (b), or both such orders, upon determining on the basis of evidence satisfactory to the Postal Service that any person—

"(A) is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, including the mailing of matter which is nonmailable under section 3001(d) of this title; or

"(B) is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind.

The mailing by any person of matter which is nonmailable under section 3001(d) shall constitute prima facie evidence that such person is engaged in conducting a scheme or device described by subparagraph (A).

"(2) Nothing contained in this subsection shall prohibit the mailing of—

"(A) a newspaper of general circulation containing advertisements, lists of prizes, or information concerning a lottery conducted by a State acting under authority of State law, published in that State, or in an adjacent State which conducts such a lottery; or

"(B) tickets or other materials concerning such a lottery within that State to addresses within the State.

As used in this paragraph, the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

"(b) When permitted under subsection (a), the Postal Service may issue—

"(1) an order which—

"(A) directs the postmaster of the post office at which mail arrives, addressed to any person engaged in an activity described by subsection (a)(1) (or to any representative of such person), to return such mail to the sender appropriately marked as in violation of this section if such person or representative is first notified and given reasonable opportunity to be present at the receiving post office to survey the mail before the postmaster returns the mail to the sender; and

"(B) forbids the payment by a postmaster to such person or representative of any money order drawn to the order of either, and provides for the return to the remitter of the sum named in the money order; or

"(2) an order which requires any person (or representative of such person) engaged in an activity described by subsection (a)(1) to cease and desist from such activity.

The resumption through use of any instrumentality of interstate commerce of any activity with respect to which a cease and desist order has been issued under paragraph (2) shall be considered to be a failure to comply with such order.

"(c)(1) The public advertisement by a person engaged in activities described by subsection (a)(1) that remittances may be made by mail to a person named in the advertisement is prima facie evidence that the latter is the agent or representative of the advertiser for the receipt of remittances on behalf of the advertiser. The Postal Service may ascertain the existence of the agency relationship in any other legal way satisfactory to it.

"(2) As used in this section and in section 3006 of this title, the term 'representatives' includes an agent or representative acting as an individual or as a firm, bank, corporation, or association of any kind.

"(d)(1) In conducting investigations to determine whether any person is engaged in activities described by subsection (a)(1), the Postal Service (or any duly authorized agent of the Postal Service) may tender at any reasonable time, and by any reasonable means, the price of any article or service that such person has offered for sale by mail. The unreasonable failure by any such person to provide the article or service to the Postal Service or its agent upon the tender of the advertised price of the article or service shall, for purposes of section 3007 of this title, constitute probable cause to believe that such person is engaged in activities described by subsection (a)(1).

"(2) If the Postal Service issues to any person a written demand, under section 413 of this title, to inspect documents or other items in the course of investigations to determine whether such person is engaged in activities described by subsection (a)(1), any unreasonable refusal by such person to comply with such demand shall, for purposes of section 3007 of this title, constitute probable cause to believe that such person is engaged in activities described by such subsection.".

CIVIL PENALTIES

SEC. 4. (a) Chapter 30 of title 39 of the United States Code is amended by adding after section 3011 the following new section:

"§ 3012. Civil penalties

"(a) Any person—

"(1) who evades or attempts to evade the effect of an order issued under section 3005(b)(1);

"(2) who fails to comply with any order issued under section 3005(b)(2); or

"(3) who (other than a publisher described by section 3007(b)) has actual knowledge of any such order, is in privity with any person described by paragraph (1) or (2), and engages in conduct which assists any such person to evade, attempt to evade, or fail to comply with any such order (as the case may be);

shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3). If orders are issued under both paragraphs (1) and (2) of section 3005(b) with respect to any activity described under section 3005(a), separate penalties may be assessed under this subsection for conduct described by paragraphs (1) and (2) of this subsection.

"(b)(1) A civil penalty under subsection (a) shall be assessed by the Postal Service by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Postal Service shall give written notice to the person to be assessed a civil penalty under such order of the Postal Service's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

"(2) In determining the amount of a civil penalty, the Postal Service shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"(c) Any person who requested in accordance with subsection (b)(1) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

"(d) If any person fails to pay an assessment of a civil penalty—

"(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (c), or

"(2) after a court in an action brought under subsection (c) has entered a final judgment in favor of the Postal Service,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in subsection (c), or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.".

(b) The amendment made by subsection (a) shall apply with respect to conduct which occurs on or after the date of the enactment of this Act.

(c) The table of sections of chapter 30 of title 39, United States Code, is amended by inserting after the item relating to section 3011 the following new item:

"3012. Civil penalties.".

FIRST DIVISION
Sixth Chancery Circuit Court

Lee A. Munson
CHANCELLOR

ROOM 501
PULASKI COUNTY COURTHOUSE
LITTLE ROCK, ARKANSAS 72201
PHONE (501) 374-0254

1981 OCT 19 PM 12 13

October 14, 1981

Senator David Pryor
United States Senate
248 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Pryor:

I am in receipt of your letter dated September 30, 1981, concerning postal fraud hearings, wherein it was indicated that hearings concerning postal fraud would be held in Little Rock on October 13, 1981. Unfortunately, this office was not in receipt of this letter until this date.

However, I wish to express that as a former Deputy Prosecuting Attorney, Assistant Attorney General, Prosecuting Attorney, and now as a Chancery Judge, I feel that the frauds being practiced through the United States mail have gotten to the point that some immediate legislation should be passed giving either the Postal Inspector General or some other governmental agency the right to immediately conduct investigations and hearings to protect the public at large.

In my own experience in this State as recently as ninety (90) days ago, it has been discovered that there are individuals in this State using the United States mail to sell medical license, college degrees and diplomas, ministerial certificates in certain churches, and other related frauds that are unstoppable because of the present situation. They may be enjoined in this State, and they merely move across state lines and continue this fradulent practice.

I would strenuously urge you in view of the many advertisements carried in national papers and magazines in the above situation that I have personal knowledge of that laws be enacted that would be encompassed giving a certain agency an opportunity to prevent continuing fraud on a uniform basis.

Yours very truly,

Lee A. Munson

Lee A. Munson,
First Division Chancery Judge

STATEMENT OF DIRECT MAIL/MARKETING ASSOCIATION

The Direct Mail/Marketing Association (DMMA) submits this testimony to the Subcommittee on Civil Service, Post Office and General Services of the Committee on Government Affairs, U.S. Senate, for use on the occasion of the Subcommittee's review of S. 1407 to amend Title 39, United States Code.

Description of DMMA

DMMA, a New York Not-For-Profit Corporation, is the largest and oldest national trade association serving the vast community involved in direct-to-the-consumer marketing and mail advertising. Its membership totals more than 2,600 firms located in 46 states and 36 foreign countries. Members range in size from "Fortune 500" companies to sole practitioners and represent every functional level of industry -- manufacturing, wholesale and retail.

The Association provides the means for improved marketing education and information in an effort to help achieve increased knowledge and effectiveness for the industry. It engages in positive efforts to communicate and explain the values of direct marketing to government agencies and other public bodies, and fosters industry-consumer relationships in an attempt to improve the environment in which direct marketers operate.

Founded in 1917, DMMA has consistently maintained an interest in promoting and enforcing ethical practices in the industry. It has developed a comprehensive set of ethical guidelines for all forms of direct response marketing, including mail order. A copy of those guidelines is attached at the end of this testimony.

DMMA also offers its Mail Preference Service which provides consumers the opportunity to have their names removed from mailing lists if they wish to stop receiving unsolicited advertisements. The Association promotes this service in major national magazines and newspapers and on radio and television stations.

DMMA's Mail Order Action Line is the consumer complaint resolution mechanism that the Association has established for the benefit of the direct response industry. Most of the consumer complaints are resolved by DMMA's contacting the company involved and reaching a mutually satisfactory arrangement.

DMMA also has a fully-staffed, professional Ethics Department. It is headed by a Director of Ethical Practices who is responsible for providing liaison with the Postal Inspection Service, the Federal Trade Commission, the Council of Better Business Bureaus and other agencies and consumer organizations that are intimately involved in terminating the use of false representations in direct response marketing. The Director conducts preliminary investigations of alleged unethical practices and uses his offices to attempt to resolve complaints before they are formally submitted to DMMA's Committee on Ethical Business Practices.

DMMA's Ethics Committee consists of fifteen DMMA members and meets approximately eight times a year. Its main function is to investigate and attempt to resolve persistent and repeated complaints that cannot be immediately satisfied by DMMA's staff. Where a legal, as well as ethical, violation occurs, and cannot be resolved, the Committee refers its entire investigatory file to the appropriate governmental agency, typically the Federal Trade Commission or the Postal Inspection Service.

Within the last two years, DMMA has established an Ethics Policy Committee consisting of seven members who meet six times a year. This Committee develops general ethical policies for the Association and for the industry at large.

Recently, DMMA has developed with the Federal Trade Commission a series of consumer guidelines for shopping by mail which include warnings against specific unethical practices, and a list of "legal rights" in mail order transactions. A pamphlet, "Make Knowledge Your Partner in Mail Order Shopping," will be promoted in magazines, newspapers and radio, and will be available on request.

The above are only some of the activities that DMMA undertakes in its effort to promote ethical business practices in the direct response marketing area. DMMA would be pleased to provide additional information on these programs and activities.

Summary of S. 1407

DMMA supports the general objectives and purposes of S. 1407 and the efforts of the Postal Service to deal with practices that utilize the mail to make false representations in the sale of goods and services. At the same time, DMMA has serious misgivings with regard to the granting of broad powers without legally accepted procedures to serve as safeguards against abuse.

S. 1407 would give the Postal Service subpoena power, the authority to issue a cease and desist order against a person conducting a scheme for obtaining money through the mail by means of false representations and the additional authority to demand any article or service that a person offers for sale by mail. Any person's unreasonable failure to comply with such a demand or a subpoena would constitute probable cause to believe that the law pertaining to false representations has been violated, and would permit the Postal Service to apply to a federal district court for a temporary restraining order or a preliminary injunction directing the detention of that person's incoming mail.

Under the existing statute, which remains in effect, if the Postal Service determines upon satisfactory evidence that a person has, in fact, violated the law, it may issue an order which directs the postmaster of the post office at which mail arrives, addressed to such a person or to his representative, to return such mail to the sender appropriately marked as in violation of the law. The mailer, or his representative, must first be notified and given reasonable opportunity to be present at the receiving post office to survey the mail before the postmaster returns it to the consumer.

S. 1407 further provides that any person who evades or attempts to evade the effect of an order issued pursuant to the section pertaining to false representations and who engages in the conduct which warranted issuance of the order shall be subject to a civil penalty not to exceed $10,000 for each day the violative conduct continues. Any such civil penalty shall be assessed by the Postal Service.

§413. Inspection Authority

Were S. 1407 enacted without Postal Service subpoena power, the Postal Service might claim an inability to fulfill its enforcement obligation without the means fully to explore and investigate potential violations. Under those circumstances unnecessary legal proceedings might be triggered under §3005(a) that a prior subpoena and investigation could have helped to avoid. That is, if the Postal Service were granted subpoena power, a subpoenaed person, before litigation, would have an opportunity to demonstrate that he had not violated the law. If he succeeds, presumably no complaint would issue and unnecessary litigation would not ensue. (Since there currently is no requirement that the Postal Service inform a person that he is under investigation, the use of a subpoena would bring a matter into the open in its incipiency and might provide the opportunity to avoid the issuance of a formal complaint.)

Another possible result of granting the Postal Service subpoena power, however, and perhaps the more ominous one, is the potential for misuse, harassment and abuse of process that might follow, with the corresponding disruption of business routine. These two conflicting possibilities should be weighed.

The proposed subpoena authority, if enacted, should be better defined so as to avoid unnecessary legal skirmishes relating to legal sufficiency, undue breadth, proper service, time to oppose, and the like.

By contrast, while the Federal Trade Commission may issue a civil investigative demand upon a person it believes may be in possession of material or information relevant to a legal violation within the meaning of the operative section of the FTC Act, the FTC demand must, among other safeguards, (1) state the "nature of the conduct" constituting the alleged violation under investigation, with reference to the applicable law, (2) describe the documentary material with such "definiteness and certainty" as to permit it to be fairly identified, (3) prescribe a return date or dates which will provide a "reasonable period of time" within which the demanded material may be assembled and made available, (4) identify the custodian to whom such material shall be made available, and (5) be served only in one of the prescribed manners -- each designed to assure receipt by the person upon whom the demand is made (e.g., personal service, registered or certified mail, return receipt requested), followed by a verified return by the individual serving the demand.

Beyond that, the FTC provisions set forth the time period within which to oppose a demand, and the procedure to be followed. It also requires a commissioner's signature before a demand may issue, and establishes an elaborate mechanism to maintain the confidentiality of the documents the Commission receives. S. 1407 is deficient in these respects and takes the unnecessary and overreaching step of establishing a statutory presumption of wrongdoing that attaches for unreasonable failure to comply. This will be more fully discussed below. DMMA would endorse the grant of reasonable subpoena power to the Postal Service, if the subpoena power were more clearly circumscribed as it is, for example, with the FTC's civil investigative demand authority, and if the statutory presumption for failure to comply were eliminated.

§3005. False Representations; Lotteries

There is little, if any, legal distinction between a Postal Service demand for documents (§413) and its demand for an article or service (§3005). Of course, in the latter case it will first tender the advertised price before expecting compliance with the demand. Accordingly, our comments with respect to subpoena power apply equally to this second type of demand. Critical here as well, as it was in the subpoena section, is the proposal to construe, by statutory presumption, the unreasonable failure (not refusal) to provide the demanded article or service as the equivalent of probable cause to believe that a false representation violation has occurred. This, then, would *per se* allow the Postal Service to issue a postal stop order or, as discussed next, a cease and desist order. The statute itself would provide the potential for shortcircuiting the due process safeguards of notice and an opportunity to be heard. DMMA opposes the establishment of such a statutory presumption.

The postal laws now permit the Postal Service to issue an order stopping mail that is in response to a scheme or device to obtain money by false representations from being delivered to any person engaged in such an activity. The Service's jurisdiction and control are over the delivery of mail. Under the bill's proposal, the Postal Service would have the power to issue an order requiring a person to cease and desist from engaging in such an activity. This shift in jurisdiction from in rem to in personam is a major expansion of Postal Service power and one that should have a demonstrated acute need and sound basis before enactment.

Moreover, the bill would not limit the cease and desist order to the enjoined person's use of the mail, but would consider as contempt the resumption of the activity if carried out through the use of "any instrumentality of interstate commerce". The Postal Service seems to be overstepping the boundaries of the empowering legislation that authorized its very existence. While perhaps the bill is not inherently legally infirm for that reason, it should be closely scrutinized before such a material extension of Postal Service authority is enacted. DMMA does not feel there is a need for establishing in the Postal Service what would be tantamount to a general law enforcement agency.

§3012. Civil Penalities

DMMA favors the deterrence of fraudulent mail order operators. Assisting the Postal Service to help bring a halt to the use of schemes and devices used by illicit marketers for obtaining money through the mail by means of false representations has long been and continues to be a primary function of its Ethics Committee. Thus, DMMA could wholeheartedly support legislation that imposes civil penalties upon such wrongdoers.

The one difficulty DMMA has, however, is endorsing legislation that grants the power to assess such penalties to the Postal Service. While endorsing the concept of civil penalties under appropriate circumstances, DMMA seriously questions the need for the suthority to do so to reside with the Postal Service rather than with a federal court of competent jurisdiction.

Anyone in privity with a person who evades or attempts to evade the effect of an order and who with actual knowledge of the order engages in conduct which assists in such actual or attempted evasion is also to be subject to a civil penalty not to exceed $10,000 for each day the violative conduct continues. Once again, the Postal Service is empowered to assess any civil penalties.

Although these provisions are conceptually favored by DMMA, it again seriously questions the appropriateness for the assessment to be made by the Postal Service.

Another section of the bill provides for "due process" to be followed in determining the amount of any penalty. DMMA favors this aspect of the legislation and, indeed, could not support a final version which would fail to provide for notice and a fair hearing before penalties were assessed. Subsections (b)(1) and (2) are ones that DMMA fully endorses and believes are necessary to any acceptable legislation in this area.

It should be noted that any decision by the Postal Service to assess a civil penalty, following the notice, proposal and hearing provisions of (b)(1), shall be final unless appealed within thirty days from the date the order making the assessment was issued, without any assurance that the person required to pay the penalty actually received the notice.

The appeals procedure of subsection (c) appears to be acceptable, although the finality of a Postal Service decision (to assess) must again be questioned on the need for the Postal Service, rather than a court, to impose a civil penalty.

By its terms, subsection (d) raises another serious issue. It removes the fact finding function from the judiciary and places it with the Postal Service (" . . . the validity, amount and appropriateness of such penalty shall not be subject to review."). This shift does not appear to be necessary to the Postal Service's ability to carry out the law effectively. We see no reason why a federal court should not retain the opportunity to review the underlying supportive facts as well as the decision rendered by the Postal Service.

Conclusion

While DMMA endorses the spirit and intention of S. 1407, it cannot fully agree with its letter. DMMA recommends that changes be made to the Bill in accordance with the above comments and the questions raised by them.

Specifically, DMMA recommends that S. 1407 be amended to provide the following:

1. The subpoena power under the new section §413 and the power to demand goods and services under the new section §3005 be subject to more precise definitions, procedures and safeguards.
2. The elimination of provisions under which a failure to submit to a Postal Service subpoena or demand constitute "probable cause" to believe that the false representation laws have been violated. Federal courts should have the authority to enforce a subpoena or demand.

3. If the cease and desist authority were demonstrated to be necessary, such orders should apply only to the use of the mail. S. 1407 extends the authority to the use of "any instrumentality of interstate commerce."
4. Civil penalties should be assessed by a federal court and not unilaterally by the Postal Service.
5. Full review authority of the facts as well as the law should remain with a reviewing federal court with respect to assessment of penalties.

Association representatives would be pleased to work with staff in an effort to overcome some of the difficulties DMMA has with the Bill in order to arrive at suitable language.

Respectfully submitted,

DIRECT MAIL/MARKETING ASSOCIATION

By Jonah Gitlitz
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The Direct Mail/Marketing Association's Guidelines for Ethical Business Practices are intended to provide individuals and organizations involved in direct mail and direct marketing with principles of conduct that are generally accepted nationally and internationally. These Guidelines reflect DMMA's long-standing policy of high levels of ethics and the responsibility of the Association and direct marketers to the consumer and the community—a relationship that must be based on fair and ethical principles.

What distinguishes the Guidelines, which are self-regulatory in nature, is that all are urged to support them in spirit and not to treat their provisions as obstacles to be circumvented by legal ingenuity. The Guidelines are intended to be honored in the light of their aims and principles.

These Guidelines are also part of the DMMA's general philosophy that self-regulatory measures are preferable to governmental mandates whenever possible. Self-regulatory actions are more readily adaptable to changing techniques, economic and social conditions, and they encourage widespread use of sound business practices.

Because it is believed that dishonest, misleading, immoral, salacious or offensive communications make enemies for all advertising/marketing including direct response marketing, observance of these Guidelines by all concerned is recommended.

The Terms of the Offer

Honesty

Article #1

All offers should be clear, honest and complete so that the consumer may know the exact nature of what is being offered, the price, the terms of payment (including all extra charges), and the commitment involved in the placing of an order. Before publication of an offer, direct marketers should be prepared to substantiate any claims or offers made. Advertisements or specific claims which are untrue, misleading, deceptive, fraudulent or unjustly disparaging of competitors should not be used.

Clarity

Article #2

A simple statement of all the essential points of the offer should be clearly displayed in the promotional material. When an offer illustrates goods which are not included or cost extra, these facts should be made clear.

Print Size

Article #3

Print which by its small size, placement or other visual characteristics is likely to substantially affect the legibility of the offer, or exceptions to it should not be used.

Actual Conditions

Article #4

All descriptions and promises should be in accordance with actual conditions, situations and circumstances existing at the time of the promotion. Claims regarding any limitations (such as time or quantity) should be legitimate.

Disparagement

Article #5

Disparagement of any person or group on grounds of race, color, religion, national origin, sex, marital status or age is unacceptable.

Standards

Article #6

Solicitations should not contain vulgar, immoral, profane, or offensive matter nor promote the sale of pornographic material or other matter not acceptable for advertising on moral grounds.

Advertising to Children

Article #7

Offers suitable for adults only should not be made to children.

Photographs and Art Work

Article #8

Photographs, illustrations, artwork, and the situations they represent, should be accurate portrayals and current reproductions of the product, service, or other subject in all particulars.

Sponsor and Intent

Article #9

All direct marketing contacts should disclose the name of the sponsor and each purpose of the contact. No one should make offers or solicitations in the guise of research or a survey when the real intent is to sell products or services or to raise funds.

Identity of Seller

Article #10

Every offer and shipment should sufficiently identify the full name and street address of the direct marketer so that the consumer may contact the individual or company by mail or phone.

Solicitation in the Guise of an Invoice

Article #11

Offers that are likely to be mistaken for bills or invoices should not be used.

Postage and Handling Charges

Article #12

Postage or shipping charges and handling charges, if any, should reflect as accurately as practicable actual costs incurred.

Special Offers

Use of the Word "Free" and other Similar Representations

Article #13

A product or service which is offered without cost or obligation to the recipient may be unqualifiedly described as "free".

If a product or service is offered as "free", for a nominal cost or at a greatly reduced price and the offer requires the recipient to purchase some other product or service, all terms and conditions should be clearly and conspicuously disclosed and in close conjunction with the use of the term "free" or other similar phrase.

When the term "free" or other similar representations are made (for example, 2-for-1, half price or 1-cent offers), the product or service required to be purchased should not be increased in price or decreased in quality or quantity.

Negative Option Selling

Article #14

All direct marketers should comply with the FTC regulation governing Negative Option Plans. Some of the major requirements of this regulation are listed below:

> Offers which require the consumer to return a notice sent by the seller before each periodic shipment to avoid receiving merchandise should contai[illegible]l important conditions of the plan including:
>
> a. A full description of the obligation to purchase a minimum number of items and all the charges involved and,
>
> b. the procedures by which the consumer receives the announcements of selections and a statement of their frequency; how the consumer rejects unwanted items and how to cancel after completing the obligation.

Negative Option Selling (Continued)

The consumer should be given advance notice of the periodic selection so that the consumer may have a minimum of ten days to exercise a timely choice.

Because of the nature of this kind of offer, special attention should be given to the clarity, completeness and prominent placement of the terms in the initial offering.

Sweepstakes

Article #15

All direct marketers should abide by the DMMA Guidelines for Self-Regulation of Sweepstakes Promotions. Articles #16 through #18 (below) contain the basic precepts of these Guidelines.

Clear and Conspicuous Disclosure of Rules

Article #16

All terms and conditions of the sweepstakes including entry procedures, the number and types of prizes, the closing dates, eligibility requirements, and the fact that no purchase is required should be disclosed in a clear and conspicuous manner in the promotion.

Devices, check boxes, reply envelopes and the like used for entering the sweepstakes only should be as conspicuous as those utilized for ordering the product or service and entering the sweepstakes.

Prizes

Article #17

All prizes advertised should be awarded. Winners should be selected in a manner that ensures fair application of the laws of chance.

Chances of Winning

Article #18

No sweepstakes promotion, or any of its parts, should state or imply that a recipient has won a prize or overstate the chances of winning.

Price Comparisons

Article #19

Price comparisons may be made in two ways:

a. between one's price and a former, future or suggested price or
b. between one's price and the price of a competitor's comparable product.

In all price comparisons, the compared price against which the comparison is made must be fair and accurate.

In each case of comparison to a former, suggested or competitor's comparable product price, substantial sales should have been made at that price in the recent past.

For comparisons with a future price, there should be a reasonable expectation that the future price will be charged in the foreseeable future.

Guarantees

Article #20

If a product or service is offered with a "guarantee" or a "warranty", the terms and conditions should either be set forth in full in the promotion, or the promotion should state how the consumer may obtain a copy. The guarantee should clearly state the name and address of the guarantor and the duration of the guarantee.

Any requests for repair, replacement or refund under the terms of a "guarantee" or "warranty" should be honored promptly. In an unqualified offer of refund, repair or replacement, the customer's preference shall prevail.

Special Claims

Use of Test or Survey Data

Article #21

All test or survey data referred to in advertising should be competent and reliable as to source and methodology, and should support the specific claim for which it is cited. Advertising claims should not distort the test or survey results nor take them out of context.

Testimonials and Endorsements

Article #22

Testimonials and endorsements should be used only if they are:

a. Authorized by the person quoted,
b. Genuine and related to the experience of the person giving them and
c. Not taken out of context so as to distort the endorser's opinion or experience with the product.

The Product

Product Safety

Article #23

Products should be safe in normal use and be free of defects likely to cause injury. To that end, they should meet or exceed current, recognized health and safety norms and be adequately tested, where applicable. Information provided with the product should include proper directions for use and full instructions covering assembly and safety warnings, whenever necessary.

Product Distribution Safety

Article #24

Products should be distributed only in a manner that will provide reasonable safeguards against possibilities of injury.

Product Availability

Article #25

Direct marketers should only offer merchandise when it is on hand or when there is a reasonable expectation of its receipt.

Direct marketers should not engage in dry testing unless the special nature of that offer is disclosed in the promotion.

Fulfillment

Unordered Merchandise

Article #26

Merchandise should not be shipped without having first received a customer's permission. The exceptions are samples or gifts clearly marked as such, and merchandise mailed by a charitable organization soliciting contributions, as long as all items are sent with a clear and conspicuous statement informing the recipient of an unqualified right to treat the product as a gift and to do with it as the recipient sees fit, at no cost or obligation to the recipient.

Shipments

Article #27

Direct marketers are reminded that they should abide by the FTC regulation regarding the prompt shipment of prepaid merchandise, the Mail Order Merchandise (30 Day) Rule.

Beyond this regulation, direct marketers are urged to ship all orders as soon as possible.

Credit and Debt Collection

Equal Credit Opportunity

Article #28

A creditor should not discriminate on the basis of race, color, religion, national origin, sex, marital status or age. If the individual is rejected for credit, the creditor should be prepared to give reasons why.

Debt Collection

Article #29

Unfair, misleading, deceptive or abusive methods should not be used for collecting money. The direct marketer should take reasonable steps to assure that those collecting on the direct marketer's behalf comply with this guideline.

Use of Mailing Lists

List Rental Practices
Article #30

Every list owner who sells, exchanges, or rents lists should see to it that each individual on the list is informed of those practices, and should offer an option to have the individual's name deleted when rentals or purchases are made. The list owner should remove names from the owner's customer or donor lists when requested directly by the individual, and by use of the DMMA Mail Preference Service name removal list.

List brokers and compilers should take reasonable steps to assure that the list owners follow these list practices.

Personal Information
Article #31

All list owners, brokers and compilers should be protective of the consumer's right to privacy and sensitive to the information collected on lists and subsequently considered for transfer.

Information supplied by consumers such as, but not limited to, medical, financial, insurance or court data should not be included on lists that are rented or exchanged when there is a reasonable expectation by the consumer that the information would be kept confidential.

List Usage Agreements
Article #32

List owners, brokers, compilers and users should make every attempt to establish the exact nature of the list's intended usage prior to the sale or rental of the list. Owners, brokers and compilers should not permit the sale or rental of their lists for an offer that is in violation of any of the Ethical Guidelines of DMMA. Promotions should be directed to those segments of the public most likely to be interested in their causes or to have a use for their products or services.

List Abuse
Article #33

No list or list data should be used in violation of the lawful rights of the list owner nor of the agreement between the parties; any such misuse should be brought to the attention of the lawful owner.

Telephone Marketing

(See Articles #9 and #27)

Reasonable Hours
Article #34

All telephone contacts should be made during reasonable hours.

Disclosure and Tactics
Article #35

All telephone solicitations should disclose to the buyer during the conversation the cost of the merchandise, all terms, conditions and the payment plan and whether there will be postage and handling charges. At no time should "high pressure" tactics be utilized.

Use of Automatic Electronic Equipment
Article #36

No telephone marketer should solicit sales using automatic electronic dialing equipment unless the telephone immediately disconnects when the called person hangs up.

Taping of Conversation
Article #37

Taping of telephone conversations should not be conducted without notice to the person called and that person's consent, as well as the use of a beeping device.

Telephone Name Removal/ Restricted Contacts

Article #38

Telephone marketers should remove the name of any contact from their telephone lists when requested to do so.

Telephone marketers should not call telephone subscribers who have unlisted or unpublished telephone numbers unless a prior relationship exists.

Fund Raising

(See Article #26)

Commission Prohibition/ Authenticity of Organization

Article #39

Fund raisers should make no percentage or commission arrangements whereby any person or firm assisting or participating in a fund raising activity is paid a fee proportionate to the funds raised, nor should they solicit for nonfunctioning organizations.

Laws, Codes, and Regulations

Article #40

Direct marketers should operate in accordance with the Better Business Bureau's Code of Advertising and be cognizant of and adhere to laws and regulations of the United States Postal Service, the Federal Trade Commission, the Federal Reserve Board, and other applicable Federal, state and local laws governing advertising, marketing practices, and the transaction of business by mail, telephone, and the print and broadcast media.

DMMA Ethics Department

In its continuing efforts to improve the public confidence in direct mail and direct marketing, DMMA sponsors several activities in its Ethics Department.

Ethical Guidelines are maintained, updated periodically and distributed to the field.

A Committee on Ethical Business Practices monitors the mails and direct offerings to the consumer and investigates complaints brought to its attention.

An Ethics Policy Committee initiates programs and projects directed toward improved ethical activity in the direct marketing area.

MOAL (Mail Order Action Line) handles consumer mail order complaints and MPS (Mail Preference Service) offers mail flow reduction or increased specialized mail to consumers.

All ethics activities are directed by a full-time Director of Ethical Practices.

For additional information or to report questionable practices contact:

John M. Cavanaugh
Director, Ethical Practices

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